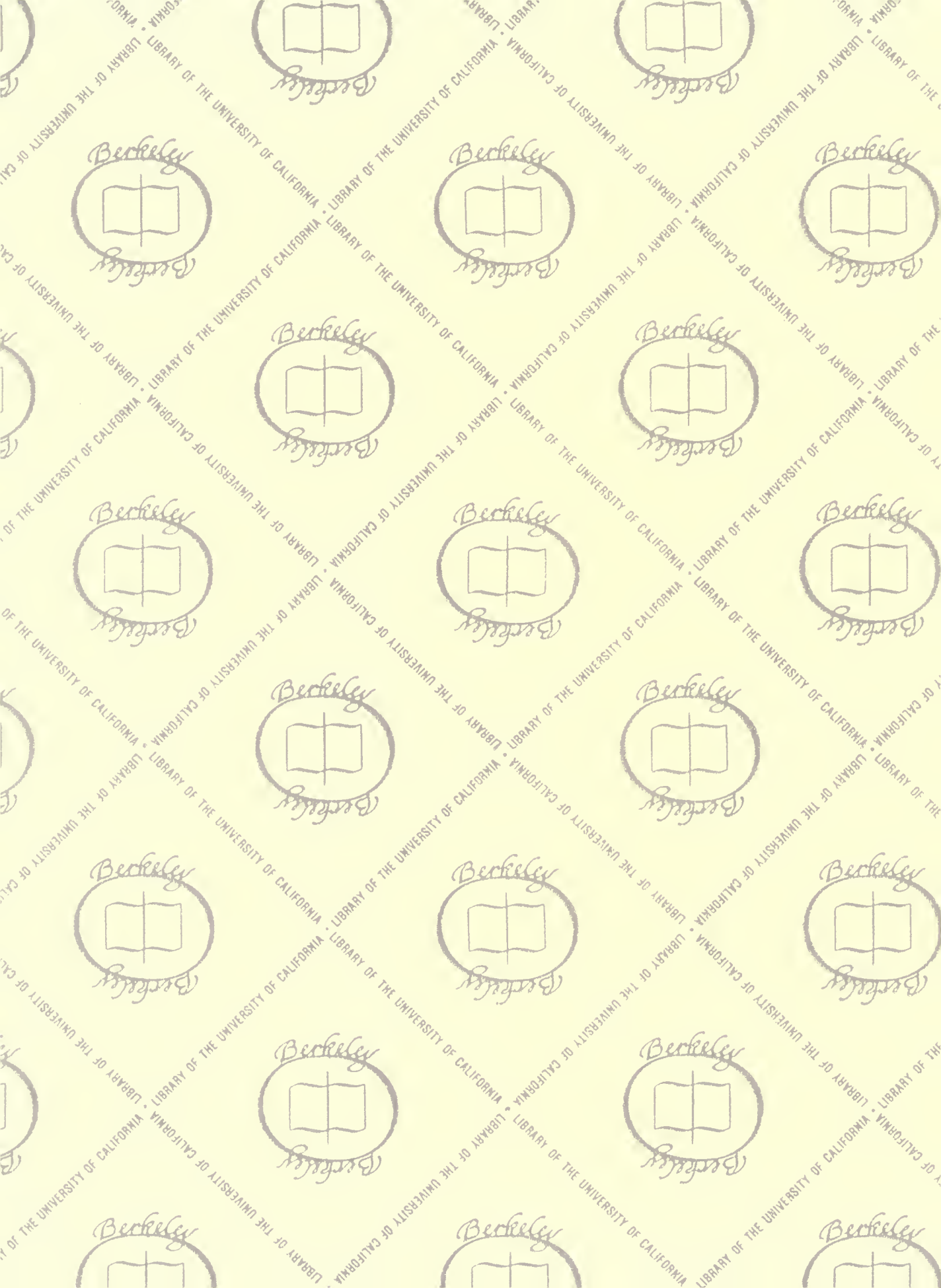


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Governmental History Documentation Project
Goodwin Knight/Edmund Brown, Sr., Era

CALIFORNIA WATER ISSUES, 1950-1966

Edmund G. Brown, Sr.	The California Water Project: Personal Interest and Involvement in the Legislation, Public Support, and Construction, 1950-1966
B. Abbott Goldberg	Water Policy Issues in the Courts, 1950-1966
Ralph M. Brody	Devising Legislation and Building Public Support for the California Water Project, 1950-1960; Brief History of the Westlands Water District
William E. Warne	Administration of the Department of Water Resources, 1961-1966
Paul R. Bonderson	Executive Officer, Regional and State Water Pollution and Water Quality Control Boards, 1950-1966

Interviews Conducted by
Malca Chall
in 1979, 1980

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PREFACE

Covering the years 1953 to 1966, the Goodwin Knight-Edmund G. "Pat" Brown, Sr., Oral History Series is the second phase of the Governmental History Documentation Project begun by the Regional Oral History Office in 1969. That year inaugurated the Earl Warren Era Oral History Project, which produced interviews with Earl Warren and other persons prominent in politics, criminal justice, government administration, and legislation during Warren's California era, 1925 to 1953.

The Knight-Brown series of interviews carries forward the earlier inquiry into the general topics of: the nature of the governor's office, its relationships with the legislature and with its own executive departments, biographical data about Governors Knight and Brown and other leaders of the period, and methods of coping with the rapid social and economic changes of the state. Key issues documented for 1953-1966 were: the rise and decline of the Democratic party, the impact of the California Water Plan, the upheaval of the Vietnam War escalation, the capital punishment controversy, election law changes, new political techniques forced by television and increased activism, reorganization of the executive branch, the growth of federal programs in California, and the rising awareness of minority groups. From a wider view across the twentieth century, the Knight-Brown period marks the final era of California's Progressive period, which was ushered in by Governor Hiram Johnson in 1910 and which provided for both parties the determining outlines of government organization and political strategy until 1966.

The Warren Era political files, which interviewers had developed cooperatively to provide a systematic background for questions, were updated by the staff to the year 1966 with only a handful of new topics added to the original ninety-one. An effort was made to record in greater detail those more significant events and trends by selecting key participants who represent diverse points of view. Most were queried on a limited number of topics with which they were personally connected; a few narrators who possessed unusual breadth of experience were asked to discuss a multiplicity of subjects. Although the time frame of the series ends at the November 1966 election, when possible the interviews trace events on through that date in order to provide a logical baseline for continuing study of succeeding administrations. Similarly, some narrators whose experience includes the Warren years were questioned on that earlier era as well as the Knight-Brown period.

The present series has been financed by grants from the California State Legislature through the California Heritage Preservation Commission and the office of the Secretary of State, and by some individual donations. Portions of several memoirs were funded partly by the California Women in Politics Project under a grant from the National Endowment for the Humanities, including a matching grant from the Rockefeller Foundation; the two projects were produced concurrently in this office, a joint effort made feasible by overlap of narrators, topics, and staff expertise.

The Regional Oral History Office was established to tape record autobiographical interviews with persons significant in the history of California and the West. The Office is under the administrative direction of James D. Hart, Director of The Bancroft Library, and Willa Baum, head of the Office.

Amelia R. Fry, Project Director
Gabrielle Morris, Project Coordinator

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GOODWIN KNIGHT-EDMUND BROWN, SR. ERA ORAL HISTORY PROJECT
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 Johnson, Estelle Knowland
 Manolis, Paul

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- Brown, Edmund G., Sr., *The California Water Project: Personal Interest and Involvement in the Legislation, Public Support, and Construction, 1950-1966.*
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 Warne, William E., *Administration of the Department of Water Resources, 1961-1966.*
 Bonderson, Paul R., *Executive Officer, Regional and State Water Pollution and Water Quality Control Boards, 1950-1966.*

INTRODUCTION

Availability of water has been a prime challenge and topic of debate throughout California's history. The years 1950-1967 were no exception. During that period the subject shot up to the top of the state's agenda as a massive statewide water project moved from the planning stages to actual construction.

Numerous engineering and financial feasibility studies, some dating as far back as the 1920s, preceded the 1957 publication of the Department of Water Resources Bulletin Number 3 which outlined an ambitious plan for water delivery to all areas of the state. By that same year the legislature had come to agree that the Feather River Project would be constructed as one of the initial components of this master California Water Plan.

While the later feasibility studies were in progress, water interests recognized that the Division of Water Resources within the Department of Public Works, with its policy-making board and complex ties to a multiplicity of state agencies, was not capable of organizing and carrying out the type of project being designed by the state's engineers. Obvious as was this need to centralize the water administration, a satisfactory bill did not pass the legislature until March 1956. Attempts had failed under Governor Earl Warren in 1953, and again under Governor Knight in 1955. Finally, in a special 1956 session of the legislature with stronger leadership from Governor Knight and careful interim committee background work by Assemblyman Caspar Weinberger, reorganization bill AB 4 passed the legislature. In July of that year the Department of Water Resources took its place in the state administration.

Despite success in centralizing control of water development in a single agency, Governor Knight was unable to bring about sufficient harmony among water interests to move the Feather River Project forward. The best he could get from a seriously split legislature was an appropriation, in 1957, to begin preliminary work toward eventual construction of Oroville Dam. The major stumbling block was inability to reach agreement on the phrasing of a constitutional amendment which would guarantee legal safeguards to the north regarding entitlement to waters in the counties of origin, and also guarantee safeguards to the south to protect that area's rights to the water for which it would bear the major construction and transport costs.

Behind this overriding north-south division were others: application of the 160-acre limit or some other measures to prevent "undue enrichment" to large landholdings which would benefit from the water project, protection of water quality in the San Francisco Bay Delta, agreement on a satisfactory formula to finance the multi-billion dollar project, and cooperation with the federal government in the building and operating of the San Luis Reservoir. This latter was a key element in the state project as well as in the federal

project for the Westlands Water District, planned as a unit in the Central Valley Project. There were also partisan political considerations. As time wore on Democrats foresaw the opportunity to control the state government, and they were eager to take ultimate credit for the success of the water project. With the election of Pat Brown in 1958 the Democrats did become the majority party in the legislature and the administration.

The newly elected governor, characterizing the preceding decade as one of delay and frustration in coming to grips with water development, was determined to unite the water interests long enough to pass a bill to provide for building and financing a state water project. Not without monumental struggle, he did so within the first two years of his administration. Construction went on apace during the ensuing six years.

Other water issues concerned the governor and his staff during his eight years in office, most notably those relating California's division of the Colorado River waters with Arizona, the construction of additional features of the Central Valley Project, and the shift from interest in water pollution to water quality.

Water quality was a subject under continual scrutiny in the state legislature. Attempts to revise the 1949 Water Pollution Control Act to bring about more stringent water quality regulations and more centralized control were met by vigorous opposition in 1963, 1965, and 1966. Despite this opposition there was gradual recognition of the relationships between water quantity and water quality. The nine regional boards were strengthened in their efforts to improve quality and tougher regulations were issued and enforced. Even the name of the boards was changed from Water Pollution Control to Water Quality Control. The end of the Brown administration also marked the end of the part-time state board and the beginning of another phase in the administration of water quality control policy. With the merger of the Water Rights Board and the state Water Quality Control Board, in 1967, the full-time Water Resources Control Board assumed responsibility for overseeing water quality in the state.

This volume includes oral history interviews with five men who were instrumental in helping to shape California's water destiny during the years 1950-1967:

Edmund G. (Pat) Brown, who, while governor, brought about realization of the state's long sought water project, which he considers one of the major achievements of his eight-year administration.

B. Abbott Goldberg, who, while deputy attorney general from 1948 to 1960, handled California's landmark Ivanhoe case. He was Governor Brown's appointee as deputy director of the Department of Water Resources and his special counsel on water problems from 1961 to 1966 and is regarded by Brown as one of the major influences in his understanding of water policy issues.

Ralph Brody, who was from 1959 to 1960 deputy director of the Department of Water Resources and special counsel to Governor Brown on water problems, and from 1961 to 1966 chairman of the California Water Commission. He has been given credit as the principal architect of the Burns-Porter Act. Remaining close to California water issues, he was, from 1961 to 1971, manager and chiefcounsel of Westlands Water District.

William Warne, who was director of the Department of Water Resources from 1961 to 1966. He was credited with superb management in the initial construction of the California Water Project.

Paul Bonderson, who was executive officer of Region 3 of the Water Pollution Control Board from 1950 to 1956, and of the State Water Pollution (later Water Quality) Control Board from 1956 to 1967. During his long tenure the state moved from concern for water pollution to water quality, as well as from water quantity to water quality.

Missing from this lineup is Harvey Banks, appointed by Governor Goodwin Knight as first director of the Department of Water Resources in 1956, who continued as director under Governor Brown until after passage of the \$1.75 billion water bond measure in November, 1960. Mr. Banks was interviewed in 1965 and his oral history, California Water Project, 1955-1961, is available for research in The Bancroft Library.

The interviews in this volume, as well as those in other volumes in the Governmental Documentation Project dealing with gubernatorial years of Goodwin Knight-Edmund G. Brown, Sr., should provide those interested in California water history with considerable fresh data with which to understand better this perennially vital subject. Excellent sources can also be found in The Bancroft Library among Governor Brown's papers and in the collections of Paul S. Taylor and Preston Hotchkis. In addition, the Water Resources Center Archives on the Berkeley campus contains a wealth of government reports and private papers dealing with water in California.

Californians are once again locked in a heated and divisive struggle over distribution of water--this time the subject is the Peripheral Canal, one of the features of the California Water Plan envisioned in the Burns-Porter Act. While the problems of the Delta reach far back in California history, this is only one among many issues in the Peripheral Canal debate. Many of the seeds of this controversy will be found in this volume covering California Water Issues, 1950-1966.

Malca Chall
Interviewer-Editor

June 1981
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Governmental History Documentation Project
Goodwin Knight/Edmund Brown, Sr., Era

Edmund G. Brown, Sr.

THE CALIFORNIA WATER PROJECT: PERSONAL INTEREST
AND INVOLVEMENT IN THE LEGISLATION, PUBLIC SUPPORT,
AND CONSTRUCTION, 1950-1966

An Interview Conducted by
Malca Chall in 1979



EDMUND G. BROWN, SR.

TABLE OF CONTENTS -- Edmund G. Brown, Sr. (Pat)

INTERVIEW HISTORY	i
THE CALIFORNIA STATE WATER PROJECT, 1950-1966	1
Background Experiences with Water Law and Water Issues as Attorney General, 1950-1958	1
The Campaign for Governor, 1958	13
The Burns-Porter Act, SB 1106	15
The Campaign to Pass Proposition 1	32
Considerations in the Selection of the Water Plan	34
Obtaining the Contract with the Metropolitan Water District	36
Policy Decisions on Power and Pricing	39
Personnel Appointments and Conflicts	45
The San Luis Reservoir Joint-Use Contract	49
The Tug-of-War Between California and Arizona on the Colorado River	52
Relations with Congress	57
Pushing for the Peripheral Canal, 1965-1966	59
Some Final Questions: The Democratic Party, the Metropolitan Water District, the Tidelands Oil Funds	60
TAPE GUIDE	64
INDEX	65

INTERVIEW HISTORY

During his term as attorney general of California (1950-1958), Edmund G. (Pat) Brown dealt with a number of crucial water issues and gradually concluded that the problems of water rights in California were related to water shortages; that, in fact, problems of water law would become obsolete "if we would devote ourselves to making the supply of developed water sufficient and stop striving for competitive advantages..."

As he campaigned for election as governor, he used substantially this same argument, outlining frequently what he deemed to be the solution to the decade-long impasse in the development of the Feather River Project. He took office in January, 1959, determined to pass the water project. The engineering plans were ready; he decided that it was up to him to get the project through the political phase which, "to my mind was just as great an achievement as the engineering."

Pat Brown chose his first year in office--his honeymoon period--to reach his goal, planning also to take advantage of his one-million vote plurality and the Democratic party's majority in the legislature. He carefully chose his staff and advisors, men with knowledge of state water issues, with broad constituencies, all of whom cared as deeply as he did that the project be started quickly.

Thus, with most of the main engineering and administrative building blocks present, it remained for his administration to sweep aside, temporarily at least, the factions which had created years of delay. He insisted that the people of the state look at the project as a unit, one in which each section would benefit, one in which water users would pay full costs, and one in which the water would be guaranteed through firm contracts. On January 22, 1959, soon after his inauguration, he delivered a special message on water to the California legislature, in which he laid out a plan for building and financing the project. "It is time," he is widely quoted as saying, "to start moving dirt and stop throwing mud."

This new approach was not readily accepted by all water interests, but within six months, as a result of the governor's determination, some skillful strategy, and mighty help from friends and advisors in and out of government, he achieved the legislation which specified the details of the California Water Project and provided the general scheme for financing it.

Between July, 1959, when the governor signed the Burns-Porter Act, and November, 1960, water was the hottest issue in the state. In Northern California, the San Francisco Chronicle depicted the project as a giant octopus enveloping defenseless water interests. In Southern California the Metropolitan Water District, expected to be the beneficiary of half the water

from the project, kept up cliff-hanging negotiations with the Department of Water Resources on a prototype contract until four days before the election. Thus the campaign pitted north against south, farmer against farmer, urban areas against agricultural, advocates of the 160-acre limit against its opponents, advocates of fish and wildlife protection against those whom they feared would destroy fishing and wildlife habitats in the Delta. Labor union members, engineers, businessmen, and economists disagreed among themselves. To allay doubts, fears, and to set the record straight, Governor Brown, his staff, many private citizens, and a blue ribbon committee, Californians for Water, traveled throughout the state speaking to newspaper editors and to as many groups of people who would listen trying to persuade them of the essential need in California for the state water project. On November 8, 1960, a perplexed citizenry approved the \$1.75 billion bond measure by a narrow margin. Some of the same tensions rose again in the mid-sixties when the governor tried to gain acceptance of the Peripheral Canal. They pervade the current Peripheral Canal debate.

Actually water issues continued to dominate the eight years of the Brown administration. The governor was often thrust into the midst of disagreeing factions within his administration. These issues related to the use of tidelandsoil funds to finance the water project, the joint federal-state San Luis Reservoir contract, the Pacific Southwest Water Plan and other ramifications of that long struggle with Arizona stemming from the Arizona v. Colorado decision, and the need to lobby Congress for appropriations for several long-planned dams to be added to the Central Valley Project.

By the time Pat Brown turned the governor's office over to his successor, in January, 1967, the California Water Project was within seven years of completion. He fully expected that the Reagan administration would build the remaining features according to plan. That Governor Reagan did not do so has disappointed Governor Brown who is as keen for completion of the project today as he was in 1959.

Because he considers the water project to be "one of his proudest achievements," he wanted to cover it thoroughly in his lengthy oral history. To this end we recorded four hours of his experiences on two different mornings, on April 24, and May 8, 1979, in Los Angeles. But first he wanted to review background material. Prior to our first recording session Governor and Mrs. Brown came to Berkeley to take part in the April 5 Charter Day ceremonies. I picked them up at the Oakland Airport and drove them to the campus. The governor and I then conferred briefly in the seminar room of The Bancroft Library, looking at the draft of questions and the background papers which I had prepared for the interviews. These papers and more were subsequently mailed to his office before each interview.

In order for him to give his full attention to the water story, to avoid the constant interruptions which beset him in his office, we agreed to an early morning breakfast followed by a three-hour recording session in my motel room. Here, leaning back in his chair, with his feet propped up on the edge of the

bed, he talked with candor, good humor, and still-felt emotion about his motivations, strategies, and disappointments relating to the California Water Project. An error in scheduling put the second interview session in the conference room of his law office. Despite the interruptions we completed the interview as planned.

Pat Brown still believes that it is better to have water with problems than problems without water. Whether one looks with favor or disfavor on the California Water Project, it cannot be argued that Governor Edmund G. Brown, Sr., is responsible for that monumental project, the impact of which has, once again, made water one of the hottest issues in the state.

Therefore, this interview, which will be one chapter in his full-length memoir, has been included in this volume covering California water issues from 1950 to 1966.

Malca Chall
Interviewer-Editor

7 May 1981
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

THE CALIFORNIA STATE WATER PROJECT, 1950-1966

[Interview 16: April 24, 1979]##

Background Experiences with Water Law and Water Issues as
Attorney General, 1950-1958

Chall: You did come in as governor with a fully prepared program about water. Much of it seems to have come from your experience in the attorney general's office so I thought we'd go back over that and discuss your work for reorganization in 1956. I understand that one time, in 1955, it was, you took a strong stand against the [Francis] Lindsay bill [A.B. 777] because he would have practically done away with the use of the attorney general's office in the Department of Water Resources, that they contemplated setting up. The following year in the Weinberger sessions, you indicated that they should get the water program going regardless of the attorney general's place in the new department although you still wanted it to have some control over the Department of Water Resources.*

Brown: When was that?

Chall: You stated that in the Weinberger hearings.

Brown: Oh, in the Weinberger hearings.

Chall: Yes, so apparently you were ready to do some kind of compromising--to what extent, I don't know.

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 64.

*A Department of Water Resources for California; Report of the Assembly Interim Committee on Government Organization to the California Legislature, February 8, 1956. [Caspar Weinberger, chairman]

Brown: Well, I think you really ought to go back a little ways in the water project, if you don't mind. I'd go right back to law school. I took a summer--

Chall: Excuse me, I'll just tell you that that's all in Chita's [Amelia Fry] interview.*

Brown: Oh, is that all in Chita's? All about the water bonds and the attorney general's campaign too? I mean not the water bond campaign; my campaign for attorney general in 1950? Is that in there?

Chall: No, I think not. You did discuss what you'd learned in law school.

Brown: I had taken a course in water law from a man that wrote the water article in Cal Jurisprudence. But I hadn't touched water law in the seventeen years I'd been in private practice and seven years as the district attorney of San Francisco. But when I ran for attorney general in 1950, as I went into the Valley and spoke to the--what they then called the Irrigation Districts of California, I discovered that water was of critical importance to the people of this state and a critical political issue. You had the farmers on one side and you had the big landowners on the other, and you had the acreage limitation that went back to the Reclamation Act of 1902.

So I had to be briefed on it. I can't remember who briefed me on it, but I spoke with some of the attorneys in the attorney general's office and I recognized the political importance of water in 1950 although the only position I took was that I would build, or complete, or cooperate in a California water project of some kind. [Governor Earl] Warren had tried to do something but he had not worked too diligently for it. It was on the back burner during his first two terms.

So the very first case I had when I became attorney general was the case of Ivanhoe Irrigation District versus All Persons. This involved the validity of the acreage limitation. Did she go into all this?

Chall: Yes, and I'm going into it again with Abbott Goldberg.

Brown: Oh, are you. Well, let me just terminate it then by saying that the importance of the Ivanhoe Irrigation case was not so much the philosophic position on whether or not the acreage limitation was good

*See interview with Edmund G. Brown, Sr., "The Governor's Lawyer," in Earl Warren: Fellow Constitutional Officers, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1979.

Brown: or bad, but the right of the state of California to contract with the federal government if the federal government attached conditions to a grant for the building of a water project. If the position of my predecessor had been sustained, the only way that we could have got any money from the federal government was to change the federal law and I don't think they would have done that--or to change the constitution of the state of California.

So I reversed the position of my predecessor, Fred Howser, and sought the validation of the contract. We lost it in the superior court. We lost it by four to three in the supreme court of California, but won it unanimously with Earl Warren sitting in the case as the chief justice [United States Supreme Court]. I really feel that was the real big decision that made it possible to build the California Water Project and I don't think most people have given me the credit I think I'm entitled to for making that strong political decision to move ahead with Ivanhoe--to change the position of my predecessor on Ivanhoe irrigation. We had to fire an attorney who was being paid fifty or sixty thousand dollars a year, a man by the name of Arvin Shaw, and we handled it by the civil service lawyers in the AG's office. That's when we brought Abbott Goldberg into the case too. Abbott was assigned to it by me.

Chall: Oh, I see. He was a civil servant?

Brown: He was a civil servant in the attorney general's office, and I don't think he'd ever handled a water case before.

Chall: Is that right? He certainly learned fast, didn't he?

Brown: Well, no one in the attorney general's office had done any water law. They had retained outside counsel all the time.

Chall: Now, you just said a moment ago that as a result of winning that case, it provided the opportunity to put over the California Water Plan. How so? Why do you suppose that's true?

Brown: Well, I don't think California would have passed a bond issue much in excess of \$1.75 billion which we suggested in the 1959 Burns-Porter Act. We had to have the help of the federal government to build the project. We had to have it in the building of the San Luis Reservoir and we had to have it in water allocations and a great many other things. It was necessary for complete cooperation between the federal government and the state.

The contention of the opponents was that any federal law that required the adoption of the acreage limitation of the Reclamation Act of 1902 would be unconstitutional, would be an invalid contract under the constitution of the state of California. They claimed that the California constitution provided that water must be equally distributed in all land and that conflicted with the federal statute. So we

Brown: contended that the federal statute pre-empted in the matter of water because the water belonged to all the people of the United States and the Supreme Court upheld it.

Now, recently there have been some decisions. I haven't read them so I'm not prepared to pass judgment on them, but a decision in the Supreme Court of the United States, a four-to-three decision (I did read it but I can't remember it as I'm talking to you this morning), that holds that the state of California is in control of the water of the state. It seems to me that they overruled Ivanhoe Irrigation versus All Persons. So when you talk to Abbott Goldberg, you might ask him about that. I'm not prepared to say, but Abbott should know that.

Chall: That's the latest U.S. Supreme Court decision?

Brown: The latest Supreme Court decision, within the last--

Chall: This permitted then the partnership too.

Brown: Later on. You see, you started asking me questions about 1955 and the reorganization. I was a member of the California Water Authority. That was composed of the controller, the attorney general, the state engineer, the state treasurer, and I think the governor--oh, and the director of finance. Those were the five people on the California Water Authority. The state engineer was a man by the name of Bob Edmonston. Bob was a good water man and, of course, I had, during my campaign for attorney general in '50 and '54, I had run into all the big water users, and the proponents of acreage limitations, and the opponents of acreage limitation, and the opponents of diverting the water to Southern California. So I became a pretty fair to middlin' water lawyer at this time.

When Cap [Caspar] Weinberger came into the attorney general's office in San Francisco [to talk to me about this] he was a Republican. I had been offered a job by his father many, many, many years before that, so we were very friendly. He said to me, "I think if you're going to build a California water project, we better have one authority to do it. You can't have all these different agencies that they now have." So I said to him, "I'll support you and I'll help you."

So he sold it to Governor Knight. So here you had the Republican governor, and the Democratic attorney general, and the Republican leader of the Ways and Means Committee, Cap Weinberger, all supporting the reorganization of the water departments of the state. So as a result of that, we put it over and that was another very, very good thing because it gave the governor, in 1959 when I was elected, it gave him the power to really run the project. He became almost a dictator of water because the director of water resources who made these

Brown: decisions and controlled all of the water and everything else, served at the pleasure of the governor. So the governor really controlled the water of the state of California.

Chall: And you could see that this was the way to go?

Brown: I thought that water was so complicated and so controversial; it wasn't a partisan issue. It was an issue of the different areas of the state. The Delta people were terribly afraid that if they even took that water down to Southern California, with their big vote, that when they needed it, they wouldn't get it back.

We wrote an opinion which was somewhat controversial--controversial from a legal standpoint. Some of the lawyers in the attorney general's office didn't agree with it, but I signed it anyway because it gave the counties of origin the right to retake their water at any time that they needed it. It gave them a prior right. The opinion interpreting the statute gave them a prior right; it gave them a priority over the importer of water. So it would give the mountain areas, the county of origin, a first right to the water even though Southern California, or the southern valley, or wherever the water was exported to needed the water.

When we wrote the opinion we felt the mountains would never need the water anyway. [laughs] I mean there was plenty of water for them up in the mountains, so when we talked about the county of origin where the water originated and said that they were entitled to a right, it was like telling someone that didn't have a--oh, I don't know. I can't think of a good example, but you know what I mean. It was a meaningless decision.

But later on, when it got into big arguments about Southern California versus Northern California and the water, or the southern San Joaquin Valley, I used it politically with great effect in arguing that the county of origin would give these people water. But what was the county of origin? Is it in the mountains where the water originates or is it in the valley where it starts? We never really--we left that quite foggy because we felt that there was plenty of water in the state to take care of anybody if we conserved it and stored the water.

So those two things, the reorganization of the water departments of the state and vesting authority in the governor, number one, and number two, the county of origin opinion during my attorney generalship were part of this very delicate political process of building the California Water Project.

Chall: Do you suppose that the success of that reorganization plan that Weinberger finally achieved was developed because Weinberger was in charge of putting it through?

Brown: Yes. You know, for a legislator to come down and talk to a Democratic attorney general and seek his help to build a project, and to have the vision to see the need of development of all the water of California was a real act of statesmanship in my opinion.

Chall: Can you recall what had occurred with the Lindsay bill? You took a strong stand against that and that was just a few years before.

Brown: What was the Lindsay bill?

Chall: I understand it was also a reorganization bill, but it would have removed the attorney general's office from the legal action on water in the new department.

Brown: I opposed any dilution of the powers of the attorney general in any shape, form, or manner. Constitutionally I felt that the attorney general was the chief law officer of the state and I did everything within my power to keep outside counsel out. Later on, we had the Department of Fish and Game and the Department of Water Resources was later in the development of the water, and there was a quarrel because the Department of Fish and Game wanted to file a suit to compel the Department of Water Resources to release more water into the San Joaquin for the purpose of fish and game. They wanted to go into court and let a court decide and I said, "No, we'll make the decision. The governor will make the decision." I decided against fish and game, wouldn't let them bring a suit. That was much later on. I can't give you the date of that, but I remember the controversy that existed.

Chall: So Weinberger--

Brown: Weinberger's entitled to great credit for that. But as I talk about my own work as attorney general, I become a little bit proud of the vision that I think I had.

Chall: While on the one hand the winning of the Ivanhoe case provided you and the state of California, as you say, with the future opportunity for getting the water plan through, it certainly brought out a lot of enmity toward you.

Brown: Oh, yes, it was enemies that I never lost after that because the farmers, the big farmers, the people that wanted that federal water, they wanted the acreage limitation repealed, and they would have done anything to get it repealed, and if they had won Ivanhoe, they felt that would be the pressure to get the federal government to repeal the acreage limitation.

Now, I wasn't really too keen for the acreage limitation. I became convinced that big farming in some crops and in some areas was far more sensible than acreage limitation, even though the acreage limitation provided, for a husband and a wife, 320 acres, and that

Brown: property was worth considerable money. Let's say it was worth \$1,000 an acre. Well, that's \$320,000. That's not a very small farm if you own a ranch worth \$320,000. So when you talk about acreage limitation... But I felt that there ought to be a better way of limiting the subsidy on water.

You see, under the federal reclamation act they sell that water for \$3.50 an acre-foot, and it cost about eighteen dollars to deliver it. So there's a fifteen dollars an acre-foot subsidy to these big farmers--Southern Pacific, Standard Oil, Kern County Land--and those people just reaped a terrific wealth there from the federal government. Now, under the state project, as it later developed, we charged them for--not the actual cost of the water because the domestic users paid for most of it--but we did charge them a much higher price for the water than the federal reclamation. They're paying in some of these areas, forty to fifty dollars an acre-foot, where they were only paying \$3.50 in the federal reclamation project.

So I would have favored probably corporate farming but under a limited shareholders program. In other words, to compel, if you are going to give a subsidy for water, to have a corporation composed of maybe a thousand people, none of whom would own more than maybe ten shares, then there'd be a real sharing of the benefits and you'd have economic farming.

But as I talk with you this morning, I'm not completely familiar with it. There was a man at Berkeley, a professor there, who fought for acreage limitation from pillar to post, wrote articles--

Chall: Professor [Paul] Taylor?

Brown: Professor Taylor. He had claimed me and praised me very highly when I changed the position of my predecessor in the water project. There's one other thing too that I think I told Chita, that when I was elected attorney general in 1950, the same month I was elected in November, the California Law Review devoted its entire issue to water law and the water problems of the state, and I read that from cover to cover. I became a real authority on the problems of water, probably more so than any lawyer except a lawyer that was writing on it or teaching water law in the state of California. I did that; I read it and reread it; read it from cover to cover.

We had the Herminghaus case, and we had the Ivanhoe case, and we had Rank versus Krug and we had Arizona versus California--these were all pros and cons in that article and I was intimately connected with all of those water cases.

Chall: I think that in terms of the 160-acre limit, we'll be coming back to that from time to time because it hung on as an issue.

Brown: It's still hanging on. It's still on as I'm talking to you today.

Chall: And I think that the people like Professor Taylor and the labor unions, and the Grange, felt that you had taken a stand philosophically for the 160-acre limit and then when you weren't concerned about it as such in the state water program, the Democrats, the liberal Democrats, and the other groups, felt that you had betrayed them. I'm not sure that it was ever clear that you were not really philosophically concerned as such with the 160-acre limit. It was a legal matter that you had been concerned with.

Brown: It was the extreme liberals who wanted to break up the big farms in the state of California. They felt the device of the delivery of water would do it. I was never convinced that the small farmer could succeed or would be good for the economy of the state and I don't know today as I talk to you whether that's true or not.

Later the political decision I had to make in connection with the acreage limitation was that if we put that in there, if we put the acreage limitation into the California Water Project as a lot of them wanted me to do--labor and other people--I felt we'd incur the opposition of some of the large landowners and they'd finance a campaign against my bond issue. So I felt it was more necessary to have water and that we could take care of any excess benefits later on. We could do it by breaking up the big farms. If they wanted to do it constitutionally or by initiative, they could do it. But I didn't want anything to stop the California Water Project.

Chall: We'll probably get back into some of that in a minute. I wanted to go back to the setting up of the Department of Water Resources. There was a bone of contention not only about the role of the attorney general, but about the kind of committee that would be used for the department, whether it would be a policy committee or an advisory committee. You took a stand that it should be an advisory committee only.

Brown: What committee is that?

Chall: That's now called the California Water Commission.

Brown: Oh, yes.

Chall: It was at first set up with seven members and then it increased to nine members, I think, through some bill of, I believe it was Pauline Davis. I sent you a list of the people whom you appointed to that commission and I was interested to know what kind of backgrounds did you have in mind when you made these appointments?

Brown: [reading list] Ralph Brody, John Bryant--Riverside, John Bunker, Ira Chrisman, John J. King, Edmund Koster, Norrie [Norris] Poulson, Marion Walker. Well, they were all people that dealt with water. They were all people that were from different parts of the state. Norrie Poulson was mayor of Los Angeles, and Marion Walker had run for state senate or assembly from Ventura and Ventura was one that I thought would need water later on. Grass Valley, of course, up in the mountains, and Petaluma and Sonoma County. Ira Chrisman down in Visalia, down in the valley. I don't remember John Bunker of Augusta. John Bryant, Riverside, was very active in water and Ralph Brody, of course, from Fresno. These were all people that had been actively working in water.

Chall: Did you ever change your mind about whether this was a good role for a commission or whether it might have been better to have been a policy making commission? The State Water Resources Board, its predecessor under the division [of Water Resources] had more authority to set policy and there were some people who felt that was better.

Brown: I still feel that to have a big commission, having hearings and things like that, that it was better to give to an executive the right to do these things, to give the governor the power. I don't know--they've modified the law now, I think, so that you do have a policy making commission. I forget what they call it today. But it's just like the Energy Commission of the state of California.

I agree with the situation where we appointed a department head and let the governor run the thing. The legislature can always change the law. But you get these damn commissions, and you put people on them, and they're part-time commissioners usually, and they become really bureaucrats in their handling. They're not subject to any political influence and whether you like it or not, the politics of being reelected is sometimes a good ingredient in making decisions.

I would compare it with the Coastal Commission today. We appoint people for a fixed term and they are just so bureaucratic--my son [Governor Edmund G. Brown, Jr.] called them "bureaucratic thugs." If you're a governor and you do these things you can change it. So I'm very happy that it was only an advisory commission and didn't have the power to make vital decisions--that we were able to make them at the department level. If we had the commission, we'd still be building that project.

Chall: I was interested in the statement that Harvey Banks had made in his interview.* He felt that it might better have been a different type of commission, one with more policy--

*See interview with Harvey O. Banks, California Water Project, 1955-1961, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1967, p. 42.

Brown: Oh, he said that?

Chall: Yes, he seemed to have felt that that might be better, and this was in 1967, I believe, when his interview was held.

Brown: I can't remember his view as I'm talking to you today.

Chall: He may not have expressed them to you either at the time. Were you in contact much with Mr. Brody at the time he was the chairman of the commission? I know you were closely in touch with him when he was your counsel. I wondered whether you had any relationships with him that were close after that, when there were still some rather important decisions to be made.

Brown: Well, when did I appoint him the attorney? Do you know? Have you got that time?

Chall: Brody?

Brown: Yes. I thought he came right in with me at the very beginning in 1959.

Chall: He did but then after the water bond was passed you appointed him to the commission.

Brown: Oh, he resigned after that. He went down to Fresno and went to work for that big--for Jack O'Neill and those people down there.

Chall: Yes, Westlands Water District.

Brown: Westlands Water District, yes.

Chall: So you made him the chairman of the California Water Commission.

Brown: Well, Ralph Brody had been one of the attorneys in the Bureau of Reclamation and in my study of the big fight between the Bureau of Reclamation and the California farmers, I supported the liberals, the [Harold] Ickes group in the Department of Interior. Ralph Brody was part of that; so was Bill Warne. These people had all been subject to a violent attack by Sheridan Downey in a book called They Would Rule the Valley. I thought that Downey was a very intemperate man. I read his book and I thought he was way out of line. So from my reading, and history, and my own political philosophy, I relied on liberals like Bill Warne and Ralph Brody to a tremendous extent, although I put Bill Warne in as the head of the Department of Fish and Game and later put him in charge of the Department of Water Resources. Abbott Golberg had been with me in the attorney general's office. Abbott was a cold--I don't mean cold, he's a very warm guy--but he made up his mind and wouldn't change.

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Chall: You were talking about Abbott Goldberg. I'd like to know something about the way he worked.

Brown: Well, Abbott had never had anything in water law until he was assigned by me as attorney general to the Ivanhoe case and he didn't come into it until late, as I remember. The first two attorneys that worked on it were Bert Levit and I can't remember who else. Maybe I gave it to Abbott too. Bert Levit was my chief assistant. I think it was probably Ted Westphal who I appointed chief of the civil division. So I worked very closely with Abbott. He was one of the key men in the development of the California Water Project.

He got very close to a little attorney in the Bureau of Reclamation whose first name it seems to me was Lee-something--I can't remember it. But he was a little fighter. He represented the Department of Interior in all of these cases and he and Abbott Goldberg joined together. He was in the Ivanhoe Irrigation District versus All Persons because the United States government intervened in that case. They agreed philosophically.

You also had a battle--what they used to call state rights--and they didn't want the federal government to have anything to say about the water. But you've got to remember at that time we had a Democratic administration and the big farmers were all Republicans. They hadn't helped me. They had supported the opposition to me, so I wasn't about to do anything for them anyway. Now, that may sound like a small-gauge guy--that he would let politics interfere with his judgment on a thing like this, but that happens to be true.

Chall: Do you think that the problems of dealing with the large landowners, and Southern California people, and the Metropolitan Water District, might have had something to do with the fact that Governor Knight just couldn't move beyond where he did move with respect to water? Many of the recommendations with respect to financing the water project, et cetera, were all made; many of them were there in place during his administration, but nothing could be done. I wondered whether it might have been a problem of just dealing with these factions, particularly if you're a Republican and you need their financial support.

Brown: Well, I think that certainly played a part in it. Knight couldn't fight the big landowners like I could because he needed their support as a Republican, number one. Number two, both the north and the south were afraid of each other. The Northern California and Southern California interests were all afraid. The Metropolitan Water District were afraid of the farmers and the farmers were afraid of the Metropolitan Water District. So they tried to write a constitutional amendment that would provide forever, or constitutionally, for the allocation of water. But it was absolutely impossible to write a

Brown: constitutional amendment and put in the constitution of the state of California declaring rights in water. I mean that Southern California would have X acre-feet of water and Northern California would have X acre-feet.

So Abbott Goldberg came to me, after I was elected governor, and said to me, "Governor, the question of water law, the question of a constitutional amendment, becomes important only if there isn't enough water, and there's sufficient water in the state of California to take care of everybody. So don't worry about a constitutional amendment. Build the project, build the dams, provide the water, and there will be no need for legislation because there will be water for everybody."

So based upon the studies and the report made to me, by the civil service people and the Department of Water Resources, that if we built the Feather River Dam, and if we built the Peripheral Canal, and if we built further dams up in the Eel River--up in the northwestern part of the state--there would be plenty of water to take care of California down to the year of maybe 2025, which is about as far as I would project myself, we wouldn't have to worry about water. Then, at that time, we figured that energy would be so cheap that we could have desalinization of the water to take care of the coastal areas and we used the Coastal California Water Project for the others. So that was the philosophy that motivated me in the water project and I think time has proven it to be correct.

But, you see, afterwards--now we're getting way ahead of our story--in 1970 or somewhere along there they passed the Wild Rivers Bill that took the Northern California waters out of the project and made them wild rivers so you couldn't build any dam. He [Ronald Reagan] also didn't fight for the Peripheral Canal so as a result of that Peripheral Canal costs have been inflated to such a point now that it's almost impossible to build. So I regard Reagan as a destroyer of the California Water Project in the sense that he didn't fight for it like I did. He probably didn't know it. He didn't know water law, he didn't know the history of it, he didn't even know California. So that's one of the tragedies.

But the environmentalists in Northern California, the Delta people, will put their arms around him and say that he saved the Bay Area from pollution and everything else.

Chall: Was there some concern at that point that the water plan as set out really wasn't going to be able to pay for itself and they had to cut back on it? They were always, as I see it, year by year differences of opinion about how much the plan was going to cost from the very beginning, where it ranges from eleven billion up or down, nobody knew for sure. When the Reagan people came in they felt there was going to be almost immediately a financial problem, and began to cut back. Was that a consideration that you think has some validity in it?

Brown: No, I don't think it has any validity because you need water. Whatever it costs you have to have it. It's like oil today. If you have to have oil, you've got to pay for it. What's the value of oil? What's the value of water? If you're crossing the desert and you haven't got a bottle of water, and there's no water any place in sight and someone comes along and says, "I'll sell you two spoonfuls of water for ten dollars," you'll pay for it.

The same thing is true in California. Whatever the cost of water is, it's relatively cheap alongside of the needs of a great big state that's now growing at the rate of 400,000 people a year. I think that cost is important. I mean you can't bring water down from Alaska when there's other available sources. But we looked at the economy of water and we just felt that that was the way to handle it.

The Campaign for Governor, 1958

Chall: Now, in your campaign for governor you set out in your speeches some ideas and statements about water which you had more or less stated during the past number of years--and others had too--about the big cost and cooperation with the federal government, and all this kind of thing. How important was water as such in your campaign for governor? When you and I are talking about water I'm likely to focus in on it as if it were the most important thing, but you had other things like FEP and--

Brown: Abolition of cross filing.

Chall: Abolition of cross filing. So how important did you feel that water was in your campaign?

Brown: I thought it was of tremendous importance. I felt it was almost the number one project. You get involved in the water of California, the water controversy, and it becomes a passion with you to see it, because it really meant the development of Southern California, and the development of the agricultural areas of the state, and providing jobs. As a matter of fact, when they developed Century City here in Southern California I went to the dedication and the head of the Aluminum Corporation of America who had purchased it from the Twentieth Century said to me, "If you didn't pass the water bonds and we didn't have the California Water Project, we never would have invested the billions that we're going to invest in Century City." So you see the offshoots of a project like that were tremendous. I can tell you it was almost number one. As I look back on what happened there were some other things that I think have had a more profound effect, but water was one of my proudest achievements.

Chall: Now, when you were campaigning you didn't campaign with any specific facts. You talked a lot about water and the fact that only the governor's office could provide the leadership for the project and all of that, but there were no specific facts on how it would be built. Were people, however, expecting that if you were elected governor, something really would be done with the water project? Were you campaigning with that idea in mind, that you were going to get support from certain groups because you were planning to put the water project over?

Brown: Really I didn't think of water in terms of if I support water it will help elect me governor. By this time I had been convinced that we needed the California Water Project and rightly or wrongly, I was going to push it through. When I talked about water I recognized it was a sectional issue and not a partisan issue and that's the way I talked about it. I still believe that to this day, that it was not partisan and I had to just be the water master of the state in building the California Water Project. I had to make the decision.

Of course, I had advisors. I had men that I depended upon like Ralph Brody and Abbott Goldberg during the campaign. I had all of those people that had assisted me, and I knew some of the big water people in the state. There was Jack O'Neill down in Fresno who was a big friend of mine and a big contributor.

Chall: Oh, he was?

Brown: Oh, yes, and so I worked right alongside of them.

Chall: Your idea, however, was to become elected and get Democrats in so that you could put the project over?

Brown: That's right.

Chall: There have been statements to the effect that the Republicans, in fact, had prepared all the ground work for the water program and the Democrats held out, particularly in the years 1957 and 1958, hoping that a Democrat would come in as governor and Democrats in the legislature, and then they would put it over. Do you suppose that there's any validity to that?

Brown: As a matter of fact, I talked with Assemblyman Vince [Vincent] Thomas, who was the Democratic floor leader, and we didn't cooperate with Governor Knight in the last year. We wanted the water project to be something that we could put over. But they were sticking at that time to the constitutional amendment. So even though there was certainly a political input, it was also the fact that Knight did not have the vision to see the impossibility of passing a constitutional amendment. He was fighting for that.

Excerpts from "Background Material for Members of the Working Press;" California Campaign Committee, October 14, 1958. Speeches of Edmund G. (Pat) Brown.

PERSONAL WATER RECORD - San Diego, September 10, 1958

A famous Democratic Governor of New York State was fond of saying, "Let's look at the record;" and, because I am now a candidate for the position of Chief Executive of California, it is time that you should know my record to date in this important and difficult subject.

I believe you will find it a first hand, continuing, and constructive record at the forefront of probing and providing public leadership on one of the most difficult and complex problems ever to confront any American state.

I am proud of this record because I believe it has been a record of leadership. As I shall presently show, I have been first, or among the first, to publicly take a position on the major questions which have arisen to date in formulating our future water policy. Substantially all of the policies and positions which I initiated, or was among the first to advocate, either have been or are now receiving widespread and general acceptance. Let's look at the record!

In January, 1955, as the Legislature convened, I issued a formal opinion upholding the constitutionality of the statutes which protect those parts of the State wherein water originates, from being deprived of water they need for their own future development. That opinion has not been seriously challenged.

Since that opinion, Southern California has been seeking to place some limitation upon the quantities of water reserved to the areas of origin in order that beneficiaries of the Feather River Project might obtain a firm and irrevocable right to receive water from that project.

The lines along which this debate was to grow, had scarcely been drawn before I had completed a study in the matter. As the result of this study, I felt that Southern California was entitled to a valid assurance of a firm right to its future needs for water.

I also pointed out that we were on the threshold of a new era in water development, and that whether we like it or not, California must undertake a coordinated development of all resources of the State.

I pointed out that the growth of the State has reached a point where there is no longer unappropriated water during periods of low flow to supply future uses in the Sacramento or in the San Joaquin Valleys, and that project construction is as essential to the future of the northern part of the State as it is to the south.

I said that without storage projects the future needs of neither area of origin nor area of deficiency can be met, and that, obviously, the construction of projects is not only a matter of time but is something which will be progressive.

This was in May, 1955, almost a year before the publication of the California Water Plan.

The Attorney General's Committee of Water Lawyers on County of Origin Problems came into being in the late summer of 1955. Every section of the State was represented by qualified attorneys who were men of high standing in their respective communities. But even as the waterlawyers commenced their deliberations, which extended over a period of a year-and-a-half, I had already turned to the questions of financing actual construction, and of fiscal policies which have always seemed to me to be the hard core of the problem.

Before the end of 1955, I had formulated and adopted certain basic policies which have since been gaining greater and greater acceptance. These were:

First, the need for the adoption of a master plan such as the California Water Plan. By means of that, plans for specific projects can be coordinated and guided toward the end of the maximum use of our remaining water resources.

Secondly, the concept that the State itself must construct and operate certain large project works which are beyond the financial resources of local agencies.

Thirdly, the creation of a permanent Water Development Fund operating on a revolving fund basis, in order to insure continuity to the State's program and orderly development benefiting all parts of the State.

Fourthly, complete development of the key watersheds is necessary in order to obtain their maximum benefits.

As evidence of my non-partisan approach to the solution of our water problems, I can point to the wholehearted support which I gave to Governor Knight in seeking, over active opposition, the creation of a Department of Water Resources headed by a Director who was appointed by and responsible to the Governor. Further, I succeeded in reaching an agreement concerning the role of the Attorney General in conducting water litigation on behalf of the State which avoided all controversy on this point.

Prior to the creation of the Department of Water Resources in 1956, as Attorney General, I was a member of the Water Project Authority.

In March, 1956, there was published a preview of the California Water Plan. The California Water Plan is not a construction program.

This being so, what was needed as quickly as it could be obtained, were the recommendations of the State's engineers and water experts for an actual state construction program. Accordingly, at one of the last meetings of the Water Project Authority, in April of 1956, I proposed a resolution which was adopted. This resolution called upon the then State Engineer, the Division of Water Resources, and the new Department, to prepare a twenty-year program in order that the people of the State might know and understand the extent of the financial burden which must be shouldered if we are to have water when and where it is needed.

So far as I am informed, this was the first formal action to produce a twenty-year program to be undertaken by the State.

I have consistently taken the position that federal financial aid and assistance should be obtained to the fullest extent possible. We cannot afford to ignore it. California water users are the direct beneficiaries of the long standing federal policy providing interest-free capital for water projects serving agriculture, and of applying excess power revenues to minimize the cost of water.

I would say that we now have an expectancy in round figures of one billion dollars of federal money to provide water development facilities that we must have.

I say to you candidly that the financial condition of the State of California will not permit us to slam the door on financial assistance of such magnitude. On the other hand, I think it equally unrealistic to want the Federal Government to carry the entire burden of water development in California.

My position has consistently been that the state can best provide the over-all direction of water development. But we must encourage the concerted use of federal, state and local funds to the maximum extent possible.

When the 1957 session of the legislature convened, I was able to transmit to it and to the Governor the final Report of the Attorney General's Committee of Water Lawyers.

The most important conclusion reached by the Water Lawyers' Committee was stated in these words:

"Under the water conditions which now exist in California, we believe that there can be no final or complete solution to the problem of the areas of origin except within the framework of a long-range program of state financing or construction of those engineeringly sound and economically feasible projects which are beyond the financial capabilities of local agencies, public and private."

Brown: I suppose we could have passed some sort of a constitutional amendment but it might have prevented the passage of the water bonds later on. It's hard to say. But there was, as a matter of fact, politics in it. I worked for the Democratic minority or majority to see that there was no water project until I was elected governor.

Chall: So, in other words, you were definitely laying the ground work for your water plan a year or two ahead?

Brown: Well, I was laying it back when I was on the Water Project Authority when Bob Edmonston stood me up against the wall and said, "If you want to leave your mark in history, you build that California Water Project." You've got to remember, when we're talking about the California Water Project we're talking about the Feather River Dam, we're talking about the San Luis Reservoir, we're talking about pumping the water over the Tehachapis. That was all in Bob Edmonston's water plan.

I'm not a water engineer and I'm not a person that knows the sources of water or how to measure acre-feet of water. I was essentially a politician in what I consider the best sense of the word. That was the project itself. Now, how do you achieve that? How do you get it done? That was the political phase of it which to my mind was just as great an achievement as the engineering. As a matter of fact, it was a more subtle and more difficult thing to do. I had to fight later on all of my close friends in the legislature--Senator [George] Miller, Senator [Stephen] Teale, and all of the people that were in the upper San Joaquin Valley, and the San Francisco Bay Area. You see, you had a rural senate then and these were the most powerful legislators.

The fact that I selected Hugh Burns to carry the bill in the senate and we started in the senate, in the rural areas, and then had Carley Porter in the assembly--this was political genius if I do say so myself. I can remember laughing and thinking what a great thing this is to call it the Burns-Porter bill. I look back on it now and it was really an achievement.

The Burns-Porter Act, SB 1106

Chall: I still read material that says that Burns wrote the act, authored the act, which Mr. Grody in his article claims is not so, that actually Mr. Ralph Brody wrote the Burns-Porter Act.* Was Brody basically the author of that act?

*Harvey P. Grody, "From North to South: The Feather River Project and Other Legislative Water Struggles in the 1950s," Southern California Quarterly (Fall, 1978), pp. 287-326.

Brown: Yes, he was. Burns couldn't--Burns didn't know water law or anything like that. He just needed water for the valley down there. He was a very good pupil in arguing for water on the floor, but Ralph Brody sat right beside him on the floor of the senate telling him what to say. Ralph Brody was the actual drafter of the act. Of course, he had legislative help. He had people that had had experience in writing acts.

Chall: The basic difference between the Burns-Porter Act and all of the other statements that you had made when you were attorney general, and in your campaigns, the one subtle change--and it wasn't so subtle--was going for the bond package, and as legislation--as a statute. Now, whose idea was that? That's really a crucial change in detail.

Brown: I really think Abbott Goldberg was more responsible for that than anybody. I think he was responsible for influencing me to not try to go for a constitutional amendment, to go for a legislative act and a bond act. I think on the bond act itself, which gave authority to the governor to issue these bonds, I think that was the composite political judgment of Brody, and Goldberg, and Harvey Banks, who was then the director of water resources, and myself.

Chall: Somebody has credited Hugo Fisher with that.

Brown: No, Hugo Fisher wasn't even in water at that time. I can't remember who was in the legislature that we depended upon the most, but Hugo Fisher didn't come in until much later. He was not entitled to credit for that.

Now, the size of the bond issue, the \$1.75 billion bond issue, that has to be credited to Norrie Poulson who was then the mayor of Los Angeles. We were questioning could we ever pass a bond act of \$1.75 billion? We didn't know exactly the cost of the project. We hadn't priced it out to any exactitude. As a matter of fact, we thought it would cost more than the \$1.75 billion, probably in the neighborhood of \$2.50 billion. But we figured there would be other sources of water. So the question was, we could get \$500 million and build the Feather River Dam and get the project started. Then you had to complete it.

I remember someone telling me about how Huey Long operated in Louisiana where the legislature wouldn't give him the money to build a road. So he built a road. He started at one end, built it to here and left a big gap. Then the legislature had to change it. So people told me about that, I can remember, and said, "Why don't you do that? Build here and build here and then they'll have to complete it."

But Norrie convinced me that if we were going to pass the bond issue at all, if we were going to satisfy them, we had to take care of every part of the state. The \$1.75 billion, plus tideland oil

Brown: revenues which was to be added to the project would complete the canal throughout the state. I can remember arguing, "We'll take one great natural resource, oil, and we'll create another great natural resource, water," which was a good argument. I don't know how much of tideland oil has gone into it, but that was one of the arguments that we used. We had to put tideland revenues in the project.

Now, Ralph Nader later came along and wrote a scathing article on the California Water Project and claimed that I lied to the people of the state in the actual cost of the water. Now, as a matter of fact, he never talked to me, nor did any of his people ever discuss it with me, as to whether or not I lied, to give me an opportunity to explain it. He just made the bold statement, he issued this statement to the press. I don't think I was ever more infuriated since I left the governor's office to have a man like Nader come out here to California, after I'd fought so hard for the water project, and to criticize me without giving me a chance to reply.

If he'd called me up and said, "These are the facts. What about it?" But he didn't even give me an opportunity to plead "not guilty" and I've never had any use for Ralph Nader since. There's the old Latin expression "*falsio in unius falsio in omnibus*"--"false in one, false in all," and that's the way I felt about Ralph Nader.

As a matter of fact, we had consultants, I mean on the financing, on the bond issue. I can't remember who they were. I think there was a man from Boston, Massachusetts. I can't remember the name of the firm.

Chall: Main, I think. [Charles T. Main]

Brown: Main, yes. The Delta people, the big farmers that opposed the water project, they retained other consultants. So the people had the two reports of financial people before them, and for Nader to say that the people were lied to by me is a complete exaggeration.

Chall: Do you think though that people can make these statements--though lying--that's a rather tough word--in view of the fact that nobody really knew how much it was going to cost? Erwin Cooper points out in his book that the initial plan was based on something that might cost \$2.5 billion, but from the time the bond act, SB 1106, was passed in the legislature in June, 1959, until the election in November, 1960, the engineers were continually cutting down the size of the project.*

*Erwin Cooper, Aqueduct Empire (Glendale, California: The Arthur H. Clark Company, 1968), pp. 230-231.

Brown: Well, there's some truth in that, but as a matter of fact to cost-price it out completely you almost had to develop the whole plan. We didn't want to delay the project for maybe two or three or four years. We did know the exact amount of the bond issue, \$1.75 billion. That's the largest bond issue in the history of any state.

When they say it doesn't include interest anybody could easily compute the interest on the bond issue or they can estimate it. When you pass a school bond issue for \$250 million payable forty years later, you never say the bond issue is going to cost double that at the present time. You say it's a \$250 million bond issue and the interest rates will be whatever the interest is at the time. So when he says we didn't count the interest, in no bond issue that I know of have they ever added on the interest, except opponents that may want to add the interest charges on a project.

We had four bond issues on the ballot in 1962. We had one for schools, elementary and secondary schools; that was \$250 million. We had one for beaches and parks; that was \$250 million. We had one for university and state colleges; that was \$250 million. We had one on veterans' loans. That was one billion dollars worth of bonds that we were issuing in one year and we never added the interest on them and said six percent over forty years will be X number of dollars. You don't talk that way. People presumptively know you pay interest on those bonds.

Chall: When you spell it out, and Bruce Allen did in some of his material, that would indicate that the price of the water program would be doubled. Of course, his idea was to pay as you go. That idea held on for quite awhile. There was no pay-as-you-go in your plan.

Brown: We never paid any attention to him. You could not depend upon the legislature to appropriate money every session for the project. You would not tell what particular benefits went to what areas of the state. I'm glad we had the bond issue. The bonds averaged out about four percent. The bonds now, of course, with interest rates of ten and twelve percent, they're selling I guess--the three and a half percent bonds we sold must be selling for maybe around \$55 and \$60 now.

Chall: Some of the later ones must have cost more in interest because I think it was some time in the seventies that there was a proposition on the ballot to allow the state to raise the interest rates to seven percent, to pay off bonds.

Brown: Did that pass?

Chall: Yes, by a small margin.

Brown: Have all those bonds been issued now, do you know?

Chall: I don't know, but I think they probably haven't if they were going according to the original plan. I do think that Reagan planned to sell them off a little faster at one point.

Brown: As a matter of fact when the project of the Feather River Dam was built--I had to make a decision personally as to whether to build the Feather River Dam. Some people claimed that we didn't need the dam; we could use the rest of the project, the San Luis Reservoir. We didn't need that water behind the dam until probably 1970 or some such date. It was down the road quite a bit.

Chall: Dillon Reed, I think.

Brown: Dillon Reed. Whatever they told us to do. But other people came along and showed me that the inflationary rate would be X dollars, that the inflationary costs would be tremendous in ten or fifteen years. So if we issued the bonds and built the dam, even though we didn't need it back in 1960 or '61, we figured that it was cheaper to do it then. It was almost a stand off. I mean don't build the dam, don't pay interest on those bonds, as against inflationary costs in those days. I mean inflation was only three or four percent.

But the thing that finally moved me to build the Feather River Dam: I was sitting there one day in the governor's office and I thought, say there's another big flood like there was in 1955. Say that people were killed because we didn't build the flood control features of the California Water Plan. I would feel very badly about it and, as a matter of fact, in 1964 we did have torrential rains and we would have had a flood. The dam was only half up, but it was up just enough to save Marysville and Yuba City. So I was again vindicated in the decisions that I had to make.

Chall: When you say it was a stand off, does that mean within your administrative family and with the Department of Water Resources people?

Brown: I would say that the finance people wanted me to delay it; the water people wanted to build it. They're builders; they like to see those projects built. But it was I that made the decision myself and I based it upon flood control, because interest and inflation was almost the same at the time.

Chall: Now, that did create some financing problems quite soon as the consultants had said it would if you built it right away.

Brown: Because the other people didn't need the water right away. You couldn't sell the water.

Chall: That's right, you couldn't sell the water, and this resulted in the decision to go back and get--

Brown: More money.

Chall: Well, not only more money but to use the Central Valley Project bonds. Do you recall the court case? I think it was Warne versus Harkness?

Brown: Yes, that was the Department of Water Resources against the Department of Finance, and the supreme court validated the sale of those bonds which we thought they'd do. That was Phil Gibson, the chief justice, with whom I worked very closely. [laughs] He was a great chief justice and it was great to validate those bonds. Miller fought it, George Miller and those fellows. They all fought [it]. But we needed all that money. But we got it. Have you got something on that there?

Chall: Let's see. [goes through papers] I don't have anything on the court cases with me. There were several court cases that you had to make some--

Brown: Oh, yes, we had to validate the Burns-Porter Act. We had to get that done.

Chall: That was the Marquardt [Metropolitan Water District versus Marquardt] case.

Brown: I don't remember which one it was, but the fact is that the chief justice worked very, very closely with me in all of those decisions. You see the supreme court didn't have to take original jurisdiction in those cases. But I would call the chief justice up and I would say, "Chief, this is very important. I want you to take it," and invariably he did.

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Brown: I can't remember the maneuverings; all I can remember is we maneuvered. You see, in the first instance we passed the Burns-Porter Act in the senate first and there were some imperfections in the bill that we discovered later.

Chall: What kind?

Brown: I can't remember what they were. Maybe Ralph or Abbott would remember that.

Chall: Were they legal imperfections?

Brown: Whether they were legal or technical imperfections I really can't say.

Chall: In the bond act, in the act itself?

Brown: In the act itself. There were some things that we would have liked to have cleared up. But when it got over to the assembly, we passed it intact. We didn't change one syllable in it because if we did it

Brown: would have had to go back to the senate for concurrence in the amendments and we never felt we could get those votes again. I jammed them through with all of the power of a governor with a million vote plurality, and I just gave it everything I had.

Chall: How were you able to do that? Grody [on page 300 of his article] quotes you as saying that you "begged, pleaded, urged and cajoled," and Weinberger, in a little article that I saw in Western Water News in August, 1959, right after the bill had been signed, said that you "pleaded, begged, threatened, and browbeat the Democratic senators." [laughs]

Brown: I did, I did. I did everything. They used to say that I had a reputation of listening to the last person that talked with me. I think it grew out of the Chessman case. But in the issues of major importance, I never retreated one iota--like fair housing, fair employment practices, cross filing, and the water project. They were all--you know, we played a tough poker game in those things.

In passing the bond issue, for example, the Metropolitan Water District really wanted to dominate the project and the L.A. Times and the Metropolitan Water District both threatened to oppose the bond issue unless I made changes in the act. One of the changes they wanted, they didn't want the east aqueduct to be built. They wanted it all to go through the Metropolitan and the Metropolitan would have controlled the whole water of the south. And they had good arguments for it. It was the second California water project. But we felt that it was a state project and the state should dominate it, and I'm glad we did because now we have an overwhelming vote in Southern California, for the time being, and a great need for water down here. It's a question whether they wouldn't use that power to hurt some of the Northern Californians.

Chall: Can you give me any instance of how you "threatened, browbeat, cajoled?"

Brown: Oh, I can't remember specifically. The one I had a tough time with was Gene McAteer. He was my closest friend, my campaign chairman--in the state senate. We were close personal friends, I mean social friends. As a matter of fact, his wife still is. At my birthday party Saturday night, why, she was there with her boy friend. I think McAteer wanted a judgeship for a man that helped him get through the bar examination, a fellow named Glickburg or something. He wouldn't vote for it until I promised to appoint this guy judge, which I finally did. He turned out to be a poor judge too by the way. He was finally defeated because of his injudicial remarks on the bench.

Chall: But you did need McAteer's vote?

Brown: I did need McAteer's vote. I can't remember. There were two or three others that I needed and I did an awful lot of trading. I did a lot of trading in the legislature, commitments. I can't remember what they were now.

Chall: It's also claimed that you had to make some strong promises to Hugh Burns in order to get him, not only to carry the act, but to stay with it toward the end. There were appointments that might have had to do with insurance commissioners and even at the very last, practically the last minute, he still was wringing concessions out of you. Do you recall any of that?

Brown: I have no recollection of that. Hugh became involved in the bill as much as I did. He wanted the Burns-Porter Act. He wanted the title, and the people in his district, fellows like Jack O'Neill that had supported Hugh and were very close to him, they were the ones that really got it more than I did. He didn't extract anything from me. On the Insurance Commission he was very interested in the reappointment of one of Knight's men, Britt McConnell, and I did reappoint him but I did it because the insurance industry wanted the man. It was one of the few places where I let an industry name the commissioner, but I did it.

I was ready to fight on banks, and on water, and on capital punishment, and a lot of other things, but I just thought there was no use making too many enemies right at the beginning of my term. But I have no recollection. I think Burns asked me to reappoint Britt McConnell which I promised to do, but I don't think it was tied into the water project at all.

Burns was the president pro tem of the senate. He was the leader. He was entitled to great consideration on appointments that I'd make and I gave it to him. Hugh was a very conservative senator even though he was a registered Democrat. But he and I always got along very, very well until the end. I mean after the first two years, I can't remember what we fought about. I think we fought about fair housing. He was violently opposed to fair housing. But generally speaking we got along very well.

Chall: Were there any concessions that had to be made between let's say water and the passage of the FEP? Did you have to water down FEP in order to get some votes on the water bill or anything of this kind?

Brown: No, I don't think so. I don't think so, although we were willing to trade. I can't think of any. Unquestionably, I wanted that water bill through and I probably would have promised almost anything to get it. I wanted it done. But you've got to remember that I had won by a million votes. This was my honeymoon, the first year as governor. I hadn't run into Chessman yet. I hadn't run into the things that later weakened me in the eyes of the public and in the eyes of the legislature.

Brown: Southern California needed that water very, very badly, and there were some other areas. I mean Kern County needed the water, so I had Fresno and Jack O'Neill. They wanted that San Luis Reservoir completed.

Then, of course, we had to share that with the Bureau of Reclamation. We had to get their help, so I needed the congressional help of men like Clair Engle and others. So it was a great political victory for me, but I was the commander-in-chief of a pretty good army. There was one other phase to it that happened. [interruption: telephone rings]

One other phase to the project was this, that we were running into trouble with fish and game because of the fish life. They were afraid there would be too much water diverted from the Delta, and it would hurt the fish life. So the engineers came up with the Peripheral Canal. That would have cost a great deal more and we didn't have that in the original project. We didn't have the Peripheral Canal in the original planning of it and I think at that time the Peripheral Canal would have cost \$250-\$270 million. But we added that to protect the fish life. Now, I didn't know when we put that in that it would also add another 850,000 to a million acre-feet of water. But we put that in for fish and game. Now, that project has not been completed yet. We had that down the line maybe eight or nine years.

Chall: But the Peripheral Canal was put in for the reasons of protecting fish and game?

Brown: Fish, not game; to protect the fish because it permitted the regulation of flow into the Delta. The way it is now without the Peripheral Canal, you have to put all that water in there to flush it out, and some places you don't need the water, you don't need it in some of the marshland around there; you don't need it. So you can regulate flow; when the fish need the water for salinity control and things such as that. This permits you to flush it out at the right time whereas now it's just an uncontrolled thing. You waste a tremendous acreage of water in flushing it out rather than regulate the flow of it. You ought to get more detail of how that works from Ralph Brody or one of the other engineers if you talk to them.

Chall: I always thought the Peripheral Canal was to provide cleaner, fresher water along the aqueduct rather than to protect the Delta.

Brown: Both, it was for both. It was put in at the request of the fish and game people because they opposed the project in the first instance and I had to overrule them. So then we came on with the canal, even though it added considerably to the cost of the project, we still wanted to go ahead with it.

Chall: Now, the fish and game people--I think the chair of their committee was Pauline Davis. Did you work closely with her on such things as the Davis-Grunsky Act and protection of fish and game. Was that one of her prime considerations?

Brown: Well, Pauline Davis was a pretty hardnosed politician. She was pretty good. She wanted some dams built up in her area that had nothing to do with the California Water Project, but they were good for her. They were little projects that had been suggested and they should have called those the Davis Lakes. I forget what they called them. But in order to appease the Northern California people, to take care of everybody, I signed the Davis-Grunsky Act which provided for recreational lakes. This was for recreation, for fish, and boating; funds were included in the project. We took money out of the tideland oil funds to build those dams up there. They've turned out to be great things too.

At that time, we didn't plan them. We were thinking, our minds were thinking that the economic use of water, and flood control; recreation was a third priority. As it's turned out, all of them have been very worthwhile and justifiable. The people that use those dams now for recreation is tremendous. I mean Castaic Lake and Perris Lake and some of the others. I don't know how much recreation there is on San Luis. I don't think there's very much. That's a pretty windy, cold slot. [pause] Have you been up to the Feather River at all? Have you seen the Feather River Dam?

Chall: No, but some day I'm going to.

Brown: Oroville Dam?

Chall: No, I've never been there.

Brown: Oh, well, you ought to take a look at it. As a matter of fact, what you should do is to get somebody, get nine or ten people, and have them charter a plane and fly up and see the fish hatcheries up there and then fly down along the route and come down into San Bernardino and to Perris.

Chall: Right, that's one of my ideas for the future.

Brown: It would take you two days to do it. It's really a tremendous thing. It's really something. Later on--I guess they were calling it the California Aqueduct--I wanted them to call it the Edmund G. Brown Aqueduct. Jack Knox put through a bill and said, "It's a cinch to go through." This was during Jerry's first term. [pause] And Jerry called me up and he said, "Dad, I think it's a mistake to call the project after you at this time. When you're dead, then they'll name something after you." I said, "Hell, I won't know anything about it then!" But he too called my attention to the fact that they wanted to

Brown: call the big auditorium in Sacramento the Earl Warren Auditorium and the people voted it down. They wanted it to be called the Sacramento. So I think Jerry's right about it. The people don't like to have you name something after yourself.

Chall: Especially if it's their project.

Brown: Bill Warne wanted to name the Feather River Dam the Edmund G. Brown. Instead of calling it Oroville Lake, they wanted to call it the Edmund G. Brown Lake. One of these days they may change the name of one of the little ditches or something.

Chall: Well, they have O'Neill Forebay.

Brown: They've got the O'Neill Forebay, and they've got the Carley Porter Tunnel, and they've got the Edmonston Pumps. So they've got lots of things but nothing--if you go from one end of that project to the other, you won't see my name any place, not a single solitary place. I think everybody is a little bit embarrassed when I go through it because they know damn right well that it wouldn't have been built if I hadn't been governor and if I hadn't been attorney general. Unless I had had the background of the fights and the feeling for water it never would have been built because the opposition was so great. Today, if you had to get an environmental impact report on that whole dam, it would be in court until the year 2000.

Chall: Yes, some of the present day opposition to the whole water program claim that it's environmentally unsound as well as fiscally unsound, so you probably would have difficulties with it.

Brown: Yes, you would have had. The environmentalists became more powerful as time went on--as California grew. Now, we're growing at the rate of 400,000 people a year. You see the Central Arizona Project will come on stream in about three or four years. They're building that now. They'll take substantially more of the Colorado River water. So we won't be able to get that Colorado River water anymore which supplements the Owens Valley water in Southern California. So we're going to need the California project water. This is like the oil shortage. I mean people still buy these great big cars and you know these gas guzzlers waste all this oil, and gas, and things like that. The same thing's true with water.

Chall: There is a claim that much of the water that's being planned for the future wouldn't be needed in quite that amount if people would conserve--not only industry and homeowners but primarily agriculture. There is a concern that agriculture takes all the water that it can get, and pumps out all the water that it can pump, and still asks for more. Some people think there must come a time when we say no to agriculture.

Brown: I wouldn't say we'd say no but we would just make them conserve the use of water. There's many ways they can conserve water and that should be part of the program of development of the California Water Project. They're pumping that water at tremendous depths now. It's cheaper to pump it than it is to buy more water in a great many of the cases. Of course, when it gets down deep you have to use a lot of power and as power costs go up it will be cheaper to buy the water. But we're going to need it all.

But you're going to have to conserve too, and during the great drought we all conserved in the use of water--flushing toilets and taking showers, and it worked. We still ought to do it, although we've had two wet years and it's very difficult to get people to talk about water in a wet year. Get a couple of dry years and then people think about water.

Chall: Back to the water bond issue itself--the method of offsetting tidelands oil money. Do you recall that offset feature? It may be better to ask somebody else like Ralph Brody perhaps about that.

Brown: What do you mean offset? I don't understand.

Chall: Well, the money that came in from the tidelands oil could be used to help pay for the construction of the project. However, then that money plus interest, that amount had to be set aside for building the other features--

Brown: The second phase.

Chall: The second phase. Some twenty-five million or more were expected to go into that fund every year and you agreed to that in essence. Do you know how that feature was put in? Was that something that you and your advisors worked out?

Brown: I can't remember that now.

Chall: How did the legislators take to having Ralph Brody and Mr. Banks sitting in on the floor of the houses and giving their signals about whether or not something was all right.

Brown: The opponents didn't like it at all. George Miller and those, tried to get them off the floor. Although Hugh Burns was the presiding officer and we had a majority with us in the thing.

Chall: Is that a rather unusual practice?

Brown: They won't permit it anymore.

Chall: Had they done that before that you know?

Brown: There had been occasions, but this was a very technical thing, the passage of the California Water Bond Act--the Burns-Porter Act. There were a lot of questions and Ralph would just sit there and answer them and he was really good. When you talk to him, you tell him that I'm still appreciative of what he did. He was really excellent and so was Abbott. Now Bill Warne, he came into it later.

Chall: Yes, it was Mr. Banks that you would have been working with.

Brown: I kept Harvey Banks in. Harvey had been appointed by Knight. Harvey was a conservative engineer, a water engineer, where Brody was a liberal lawyer--or so I thought. He's now been down there with the Westlands project and he's been very severely criticized. But he had gone through the wars with the Bureau of Reclamation on water throughout the entire West. But I wanted to make it nonpartisan. I didn't want to put a Democrat into the Department of Water Resources. So I kept Knight's man in and that was a deliberate judgment on my part. Banks and I were never too sympathetic. We didn't see eye to eye on a great many things.

Chall: But on water?

Brown: Well, on water particularly. I can't remember where we disagreed. There were terrible fights between Ralph Brody and Banks and both of them threatened to quit from time to time, and I just had to jolly both of them along and tell them both, "You're the boss, you're the chief, don't worry."

Chall: Who was the boss? Who was the chief?

Brown: Brody was the one I relied on more. I relied upon Brody; he was a Democrat and my appointee. Harvey Banks was a Republican, a Knight appointee...but he was a good engineer, a very sound fellow, and I respected him very, very much. But the man from whom I had received a great deal of my advice during the campaign was Ralph Brody. He had been with the Bureau of Reclamation. Banks resented the fact that he wasn't named chief signal caller. He was the director and yet the governor did most of his conversing with somebody else.

Chall: That would be difficult, of course.

Brown: Very. But I kept it up until the water bond issue was passed. I don't remember when Harvey Banks resigned.

Chall: I think he announced his resignation in October 1960, but didn't leave office until December, because you wanted to announce in October 1960--that was even before the bond issue was passed--that William Warne would be the new director. Warne doesn't know why you wanted to make the announcement prior to the passage of the bond act.

Brown: I don't either.

Chall: Was there some political meaning, a signal to the Democrats out there?

Brown: I probably had some sinister reason for it, but I can't remember what it was now. Maybe the Democrats were opposing the acreage limitation; I mean opposing the fact that we didn't have the acreage limitation in the bond issue.

Chall: Yes, the Democratic party was opposing that.

Brown: But I can't remember now why I did it. Ralph doesn't know either, eh?

Chall: Well, I haven't talked to him yet.

Brown: Have you talked to Bill Warne?

Chall: Yes.

Brown: He didn't remember why, eh?

Chall: He said he didn't know why.

Brown: I don't know why either, so we're even.

Chall: All right. The bond act, according to Bruce Allen and others, was just a governor's give-away program. I mean there was no data in there about exactly how the money was to be repaid. None of the facts were laid into the bond act, and yet billions of dollars were going to be spent without any assurances of how it was going to be paid back. That was a calculated action on your part I take it?

Brown: Yes, I wanted it to be open-ended so that the governor and the department could move ahead with the water project. Like right now the governor needs very little authority to issue more bonds or do whatever he can, fiscally, to complete the project. The legislature would have to affirmatively take some action to stop him. That is just exactly the way I wanted it. Bruce Allen, of course, he was a very vicious legislator, one of the most vicious guys that I've met. I could hardly talk to him he was so bad. One of the worst I've ever seen in the legislature. He's now a judge. That scared the life out of me, to think of this man being a judge, but they tell me he's turned out to be a pretty good judge.

Chall: He had a plan, of course, for years, about using tidelands oil money and the whole pay-as-you-go process, which, as you have pointed out, would never have worked.

Brown: I didn't pay very much attention to him and that probably annoyed him.

Chall: Now, you did put into the bond act his tidelands oil fund act which had been passed just prior to SB 1106.* In fact, you waited until it was passed before you moved yours.

Brown: Was that his bill? Was that Bruce Allen's bill?

Chall: Yes, it was.

Brown: To use part of the tidelands oil funds?

Chall: Yes.

Brown: Well, I don't remember that but I had no compunction about even using my enemies in order to accomplish the result. You've got to remember that I was absolutely determined that I was going to pass this California Water Project. I wanted this to be a monument to me. So it was good for the state, but I felt that from a political standpoint, I mean from my own political standpoint, you want to accomplish things. Like if you're a lawyer you want to win lawsuits, and I wanted this project.

Chall: Why was this so important to you?

Brown: Well, it was like building the University of California. I mean I knew they needed it and it was a very difficult political issue to get over. There was tremendous opposition to it, so it's the competitive spirit that I had but also a great sense of accomplishment. You know, when you run for public office you have somewhat of a missionary complex. You think you're the only guy or the only person that can do this job and that's the way I felt about the California Water Project.

Chall: Okay, now by leaving out all of the particulars, by leaving them out of the bill, you knew sooner or later (you, Ralph Brody and the rest) that you were going to have to come up with a plan for repayment even though it wasn't in the bill--and for pricing. Almost at once in Western Water News, September, 1959, there's an article by Samuel B. Morris, a consulting engineer in Los Angeles. He suggested a two-part rate structure which, in fact, is the method that was used. So the general question is what was going on behind the scenes to have developed that rate system--this two-part rate system--that is the Delta charge and then the capital cost for transportation and construction?

*The bill by Bruce Allen was known as the California Water Fund Bill, AB 1062.

Brown: Well, it was a very difficult thing to price out. I mean to take the flood control features, the recreational features, which would be paid for by all the taxpayers of the state, the tidelands oil funds, and then the actual cost of water. The farmers couldn't afford to pay the same cost as the person who would maybe pay a water bill of two and a half or three and a half [dollars] a month.

Chall: You all knew that this was going to be a problem?

Brown: Oh, yes, we all knew. It was a matter of compromise, and working it out with Metropolitan Water District and other water contractors in the state. It was a very difficult thing to do. We had a tough time with the Kern County Water District, a very, very difficult time with them on those contractual obligations. Bill Warne was a dedicated man. He was the one that got in there and started working with these people and he was a very stubborn individual. When he made up his mind, nobody was going to influence him. He became very unpopular with a great many of the water users and a great many of the legislators too. But he had a great friend in George Miller. As a matter of fact, George Miller had recommended him to me. He was over in Korea or someplace at the time. I called him over in Korea to come back and be the Fish and Game Director and he agreed to come back. Even though Miller was opposed to me, he was very friendly with Bill Warne.

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Chall: So almost at once, you were having difficulties with respect to repayment. The Irrigation Districts Association, the State Chamber of Commerce with Burnham Enersen, the Farm Bureau Federation, and even the Federated Women's Clubs sent you a letter about the difficulty that agriculture would have in paying for the water. How did you all work this problem out about agriculture? What were your feelings about farmers? We talk about farmers but the indication is that most of these people in Kern County had rather large acreages.

Brown: Oh, yes, the people you're talking about were the big corporations of the state of California.

Chall: How could they not have afforded to pay?

Brown: Well, they could afford to pay for it and they did pay for it. We just told them to go to hell. We knew they needed the water and that they'd eventually come along with us--which I think most of them eventually did.

Chall: An arrangement was made with the Kern County Water Agency that they could have surplus water for eight dollars an acre-foot, just the cost of transportation of the surplus water to sections of the area.

Brown: Well, we just threw that in because--

Chall: That's a subsidy in a sense is it not?

Brown: Well, it is and it isn't. What are you going to do with it? If they didn't buy the surplus water it would flow to the sea. So we had to get rid of it at bargain rates and, of course, if we could induce them to buy it, why, fine and dandy. Now, in the water drought of two years ago Kern County didn't have enough water. I represent an irrigation district down there, the Berrenda Mesa Water District, and they had one hell of a time. They were absolutely dry.

Chall: They were dry in Kern County?

Brown: Oh, yes, they had to allocate the water. In the first year they gave us enough just to keep the vines and the orchards going. The second year they didn't know what they were going to do, and then the rains came along and saved us, and we had a deluge. But if that drought had lasted another year, the agricultural interests would have lost millions of dollars. You can't imagine what a disaster it would have been. And the only thing that saved them in this drought year was the California Water Project. That was the only thing that saved them through those two years of drought. You're going to have other years of drought as sure as we're sitting here in this room and that's why it has to be completed, and they're dillying and dallying and fighting it. The state senators from Southern California, Republican state senators, wouldn't give my son the bill last year which they should have done.

Chall: Oh, the canal?

Brown: Right.

Chall: Do you get the feeling that you've been all through this before; the same groups are opposing? Even some of the farm groups were opposing the bill because they didn't want it tied into control over ground water. That's part of it. The Delta interests are part of the opposition.

Brown: Oh, yes, I don't think any of them have retreated. There's one group down there--I forget the name of the man--the father carried on a water fight and I think he must have told his son on his death bed, "You must never go along with the water project." They're very well-to-do farmers. They've got all the water they need themselves, but they're scared to death they'll take it away. So they financed the fight against the water project. They financed the fight against it last year. No matter what kind of a bill will come up they'll fight it. They want to still destroy the California Water Project, and unless the people become aware of the need for water, they can very likely succeed, because they know the value of water, they know the need for it.

Brown: If there's no conservation or no regulation, then the water has to flow as it flowed before we had any dams or anything else, and they won't have to pay for it. The Delta gets all that water for nothing. You see, during the early days before they had the Shasta Dam, if you'd have a dry year, you'd have salt water almost all of the way up to Sacramento. Now you have fresh water throughout the entire year and they just pump that water out of the Delta and they don't pay anything for it at all. Really they should be bound by the acreage limitation because they're beneficiaries of the Shasta Dam, the reclamation project.

Chall: They are bound by it, aren't they?

Brown: They're bound by it in my legal opinion, but it's never been enforced. None of those Delta islands have any acreage limitation in the allocation of the water.

The Campaign to Pass Proposition 1

Chall: Let's talk about the passage of the water bond issue. Mr. Preston Hotchkis, who was your statewide finance chairman, says that it was the toughest campaign he had ever been involved in.

Brown: Did you talk to him?

Chall: No, others in the office have been interviewing him and this was one of his statements during his interview.* I gave you a list of the people who were chairmen of the campaign.

Brown: Yes, let me see if I have it.

Chall: Also, this book that I have here is a publication of the Metropolitan Water District on its fiftieth anniversary and there's some background here on the passage of the water bond which I would like to take up with you also.**

Brown: Have you got the names of the people I put on the committee?

*See interview with Preston Hotchkis, Sr., One Man's Dynamic Role in California Politics and Water Development, and World Affairs, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1980.

**Aqueduct, Fiftieth Anniversary Edition, Metropolitan Water District (46: 1, Fall, Winter, Spring, 1978/79), pp. 58-64.

Chall: Yes, Thomas Mellon was your state chairman and some liberal Democratic groups felt that this was a terrible decision that you had made to put in one of the most conservative persons in the state of California as the chairman of your water bond campaign. Cyril Magnin was the Northern California chairman; Norris Poulson, Southern California chairman; Preston Hotchkis, statewide finance chairman; and Edward Day, statewide treasurer. How were these men chosen?

Brown: Well, I wanted people that could raise money. Preston Hotchkis was a Republican. He raised a lot of money, and Cyril Magnin raised the money in the north, and Norrie Poulson was the mayor of Los Angeles. I thought it was a pretty good cross section of the people.

Chall: Did you pick them on your own or did you have someone do this for you?

Brown: Oh, no, I picked them myself. I called them up. See, Hotchkis, they own the big ranches in both Los Angeles County and in Santa Barbara County. They own the ranch up there. Now they're fighting the nuclear power plant up there--I mean the LNG site up there, up there on that ranch. I forget the name of the ranch.

Chall: They're fighting against it?

Brown: They're fighting against it, and they're fighting it on environmental grounds, and they've never supported any environmental cases until it began to affect them.

Chall: The others who assisted in the campaign were the League of Women Voters and other women's groups. How valuable do you think that the League of Women Voters were?

Brown: Oh, invaluable. I consider the League of Women Voters the most objective group in the state of California. I think there is less pressure of special interest in the League of Women Voters--there's none. I don't say they always make the right decisions, but the women I found were the most intelligent group in the state, the League of Women Voters. When they agreed to support us I knew that right was on our side.

Chall: That's interesting. Hotchkis says that it was the tremendous work of the women--not only the league women, but other women--who really won the campaign.

Brown: I think that's true. You see, during the campaign I went up and down the state. I made speeches from Arcata in the north to Imperial County in the south. It was a bi-partisan issue. At the same time, Kennedy was running and I was making speeches for Kennedy. So I'd have one hat on at noon talking to a Santa Barbara club and then at night I'd be talking to a group for Jack Kennedy, and I worked like hell for both of them.

Brown: I thought on the night of election--I can never forget--we were in the Beverly Hilton Hotel. The returns came in and I'd thought we'd lost the water bond issue, we'd lost that one, and that Kennedy had won. So we thought it was a fifty-fifty victory. But later on the returns came from Orange and San Diego and we won. We lost forty-eight, I think, of the fifty-eight counties in the state on the California water bond issue. The Commonwealth Club opposed it; the San Francisco Chronicle carried on a militant campaign with a big giant octopus, the water project, and they took me on violently, and we finally won it.

Then Kennedy lost when the 100,000 absentee ballots came in from the conservative Republicans. They always vote absentee. I was very, very disappointed in losing Kennedy that night. I thought I had won both of them for a little while. As a matter of fact, I was down in Mendoza, Argentina when I heard those reports. They used to count the absent voters later. I was told at that time, by the gleeful Republicans, that Kennedy has lost California to Nixon, which made me very unhappy.

Chall: What if the bond issue had lost?

Considerations in the Selection of the Water Plan

Brown: If the bond issue had lost we never would have had a California Water Project.

Now, we had to make one other decision. I think I've talked about before. Today, of course, the environment--the quality of life--is very important. At that time, I was primarily dealing with the quantity of life. People were coming into California, and there was no pill, there was no abortion. So we had a big birth rate and a big in-migration. So I had to build roads, and highways, and schools, and universities, and water projects, and beaches, and parks, and everything else. Some of my advisors came to me and said, "Now, Governor, don't bring water to the people; let the people go to the water." That's a desert down there. Ecologically it can't sustain the number of people that will come if you bring the water project in there.

I weighed this very, very thoughtfully before I started going all out for the water project. Some of my advisors said to me--and I can't remember who they were now--"Yes, but people are going to come to Southern California anyway. If you don't have water, they'll be there anyway but the life will just not be as good for the people if you don't have the water project in, balancing the thing." Somebody said, "Well, send them up to Northern California." Well, I was a

Brown: Northern Californian. I knew I wouldn't be governor forever. I didn't think I'd ever come down to Southern California and I said to myself, "I don't want all those people to go to Northern California."

So environmentally we did consider it. Now, it's arguable whether or not we shouldn't have limited growth by lack of water. Santa Barbara County just defeated a water project up there because they don't want growth, they don't want people going into Santa Barbara County, and if there's no water you're not going to build any homes and people won't go up there. It's a hell of a way to limit growth, but it's probably as good as any.

Chall: There was also a later concern about the way the water plan worked out from some economists at the University of California at Berkeley who thought that it might have been a better idea to put the water on the east side of the San Joaquin Valley, where it already was to some extent, of course, in the Central Valley Project. They claim that the land on the west side was marginal and one was putting a great deal of water onto what was really marginal land, and also land, as you know, that's so alkaline that it creates problems of its own.
[interruption: telephone rings]

Brown: You see, the federal government is supposed to build the east side canal too. They would have taken care of the east side for their water needs and I hope they build that east side canal too. I'm not too familiar with where that water was to come from, but they probably need water because they're overdrafting on the east side of the San Joaquin Valley. But the west side, all in all, it will develop as time goes on. You see, we needed to sell that water to Southern California, to build the dam, and we had to have that flood control, and we do have recreation.

The situation was that there were fifteen different plans--I mean fifteen economists, financiers--there were all sorts of plans that came to me as governor, that I studied after I was elected governor, and even during the period that I was attorney general before I made governor. Finally, I said, "There's no one right plan; we've just got to have a plan." It's like energy today. There's no right way to conserve energy, or to price energy, but you just have to do something. If you don't do anything, you don't get anything done. So I arbitrarily selected this one. I thought it was the best. Don't misunderstand me--I didn't toss a coin or anything like that and make a choice. But if we had made other decisions, you would have weighed that against the cost of an east side canal, rights of way through the rich lands of the east side. You already have the Friant-Kern Canal. The pumps! The question of whether we should have two pumps over the Tehachapis. Bechtel and Company recommended one; Daniel Johnson recommended another, and I had to make choices on them, and I'm not an engineer.

Chall: Is that right? You did?

Brown: I did it myself. I got advice from my own engineers, of course, from the people that were building it. But you had three engineers. You had Bechtel, you had Daniel Johnson, we had our own engineers, and then we had the Metropolitan engineers too.

As a matter of fact, in one decision that's rather interesting, the Metropolitan Water District, who wanted two pumps rather than one, stated that we were building it on an earthquake fault which we are. The tunnel is built right through a big fault. They said, if you have two pumps and one goes out, you only have to repair one instead of repairing the whole thing. They said that you will only have 50 percent to do over again. I went home and I talked to my wife. Somebody had argued it was like riding in an airplane. A husband and wife should not ride in the same plane because if one airplane goes down, why one will live. I came home and made that argument to my wife and she said to me, "The way I look at it is if one of you rides in a different plane, one of you has twice as much chance of being killed!" [laughs] So based upon my wife's suggestion, we built only one pump. So those were little decisions that were made that went into this project.

Chall: So whenever there was really a conflict among experts you would have to make the decision.

Brown: Yes, I would have to make the decision and I made it too.

Chall: You must have made plenty of them then.

Brown: I made lots of them, I mean financial, and building of the dam, and they were all--I was like a czar of water in these things. But I don't mean that I did it whimsically or capriciously. It was done based upon the soundest political and engineering and scientific advice that I could get.

Obtaining the Contract with the Metropolitan Water District

Chall: Would you describe some of the tensions that were between you and the Metropolitan Water District in getting that signature? According to the Metropolitan Water District people in their fiftieth anniversary edition here, it took ten months of negotiation until they could reach the point of agreement. In fact, you announced pricing policies in January of 1960 and it wasn't until that summer that they claim they were able to see anything concrete that they could work on. This apparently is so because there's a letter you received from Mr. [James] Cantlen, president of the Los Angeles Chamber of Commerce, and he says

RECEIVED

JUL 20 1960

July 14, 1960

The Honorable Edmund G. Brown
Governor of the State of California
State Capitol
Sacramento 14, California

Dear Governor Brown:

Our Water and Power Committee, together with our State and Local Government Committee, has been working diligently and continuously for many months seeking a sound basis for the Los Angeles Chamber of Commerce's support of the State Water Plan.

One of the principal obstacles to a conclusion to this work has been the unavailability of a specimen contract acceptable to the State of California for providing water under the State Water Plan. On January 7 of this year we presented to you a statement of features and principles which we felt should be included in such contracts. Shortly thereafter you and the State Department of Water Resources announced principles which should be incorporated in the State's contracts for water.

During the intervening months there have been numerous meetings and discussions between interested parties and appropriate State officials to expedite the determination of a specific form of contract. To date the State has not yet made public any contract which would be acceptable to it.

Like you, we of the Los Angeles Chamber of Commerce appreciate the vital importance of the implementation of the State Water Plan. I feel obligated to call to your personal attention the lack of a specific contract and the obstacle this delay presents to the Chamber's expressed support of the State Water Plan.

To permit of the Los Angeles Chamber of Commerce taking a public position as soon as possible on the vital water issue, I respectfully and urgently request that you lend your influence to the publication of the specific form of contract at the earliest possible date.

Sincerely,

/s/

James S. Cantlen
President

Chall: that they would like very much to come to a decision about the water plan, that one of the principle obstacles to a conclusion to this work has been the unavailability of a specimen contract acceptable to the state of California for providing water. "On January seventh of this year we presented to you a statement of features and principles which we felt should be included in such contracts and shortly thereafter you and the state Department of Water Resources announced principles which should be incorporated in the state's contracts for water. During the intervening months there had been numerous meetings and yet the state has not made public any contracts which would be acceptable to it." So what was going on in your office?

Brown: Well, we were having a tough time getting the right pricing. We didn't know just exactly how to do it and there was internal disagreement, so we couldn't present it to anybody else. Metropolitan, of course, was driving a very hard bargain. It wasn't until the last two or three weeks of the campaign that they finally came up with it. I remember going into see Norman Chandler and Norman Chandler saying he was going to oppose the project in the L.A. Times unless we went along with the Metropolitan's viewpoint. I told Norman, "Then you just oppose the project, Mr. Chandler. The people will look at you with scorn as the years go on." So he walked out and I didn't know whether he was going to support it or not. I was really very angry. I don't think he was angry, but I was very angry at him. But they finally supported the project and so did the Metropolitan Water District.

They had to do it. I knew we had them. I knew that if they didn't get this bond issue over, they'd never get water in Southern California. So they did support it but they waited until the very last hoping I would yield, particularly on the east side canal. That was the main thing. And the reason they didn't want the east side canal was that they wanted to control the project, they wanted to sell all the water. But the way we did it, we had cohorts on the other side. Now, the Riverside newspaper--I noticed an editorial in there taking on the Metropolitan Water District for not coming along with us. It was a very delicate political maneuver from time to time and any wrong decision would have meant the loss of the war, if we had not done it right.

Chall: How closely involved were you during the ten months of negotiations? [Robert] Skinner worked with [Charles] Cooper, Don Brooks and Don Whitlock; Harvey Banks, according to Met's publication was the chief negotiator for the state. "If he had authority to handle certain things, he'd tell us, and if he didn't, he'd say he'd say he'd have to take it up with the governor."

Brown: Well, he'd come back and report to me. But I didn't do any individual negotiations because I really didn't know the cost of water. I didn't know what was good or bad. They would explain it to me and they'd come back to me. But they did all the price negotiating. I didn't have anything to do with that at all.

Chall: What about Carley Porter?

Brown: No, Carley didn't know anything about it either. We had to explain to him; we had to dot the i's and cross the t's. Carley became very knowledgeable about it before he got through and was very, very good. But he wasn't a lawyer. He didn't know anything about water law. He didn't know anything about pricing. But he handled it very expertly. I don't want to minimize the work that he did in the legislature.

Chall: But they claim that after the act's passage it was Carley Porter who smoothed out some of the differences between Met and the state before the contract was signed.

Brown: Well, that may have been true. We had to go along with the legislation. We were very grateful to him too for the expert way he handled it in the legislature.

Chall: Were you in contact with any members of the Metropolitan Water District board? Could you have influenced any of them to move away from Jensen's position or did you just have to wait?

Brown: I had some friends on the great big board of directors. But Joe Jensen was a stubborn old man and he had fought these battles. He was ringwise; he's been in it a long, long time.

Chall: According to this same report it was Noah Dietrich at the last who broke away.

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Chall: Mr. [Alan] Bottorf? The Met history claims he was active in the negotiations.

Brown: Oh, yes, he was very active and always very nice, but very persistent too.

Chall: He represented the Feather River Project Association which, of course, was behind the Feather River Project for many, many years. But he also represented Kern County farm interests. Big interests.

Brown: A big interest; he was the front man for the big interests, yes.

Chall: So it's quite possible then that he was there working behind the scenes on this.

Brown: Oh, yes, he was up there working on the thing. But Bill Warne was a tough negotiator and bargainer too. That's why I had him in there. He was a stubborn guy and he had fought with these people for years and years and years. We really shoved it down Metropolitan's throat because they had to have water and we were the bosses. We knew they had to have it. If they didn't get that through--and thank God they

file

OCT 10 1960

FOR IMMEDIATE RELEASE

October 5, 1960

Board of Directors
Metropolitan Water District
of Southern California
306 West Third Street
Los Angeles, California

Gentlemen:

I have received your wire of October 4 and discussed it in detail with the top officials of the State Department of Water Resources.

We are in complete agreement that your communication is intemperate in tone, and in important instances, mistaken or misleading in fact.

More important, the Board appears to have set itself above the legislative and executive branches of State government--which created the Metropolitan Water District.

Not a single member of your Board is elected by the people, yet you collectively assert the right to pass on statewide policy which properly can be determined only by elected officials responsible to all the people of California.

I am amazed, as I am certain are the people of your area, that you have been unwilling even to explore with us the promising areas of compromise suggested by your own water committee and technicians--the persons who have been most familiar with this matter and with the past negotiations.

A bare majority of the Board appears to wish to dictate where, if and when all of Southern California will receive water.

I am confident, however, that neither the constituent units of the District nor the people of Southern California are in sympathy with the content or manner of your ultimatum to the sovereign State of California.

We have willingly recognized the legitimate interest of the Board in those questions which are properly subject to negotiation in any contract between a state and one of its entities. But I can not, and will not, recognize any right of your Board to dictate economic and social policies affecting the entire State--or, for that matter, the people of the area you serve.

October 5, 1960

Board of Directors
Metropolitan Water District
of Southern California

Nor will I be party to any effort to deny the Legislature elected by the people of California its constitutional and legal prerogatives.

However, I am issuing no ultimatum. I am interested in progress, and I will not stand on ceremony when something can be accomplished. I am instructing the Department of Water Resources and its staff to work further with you to determine if additional areas of agreement are possible. I must make it clear, however, that the basic principles we have consistently supported are not themselves subject to change. The applications, the terms, the conditions and the language, however, are open both to discussion and to reasonable alteration.

It is your right to refuse, but if you exercise that right, I think you should be conscious that you are risking responsibility for a long and crippling delay in bringing urgently needed new supplies of water into Southern California--and just as urgently needed flood control to Northern California.

This project is not for the Board alone, nor for the MWD alone, but for all the people of California, south and north alike.

Attached you will find a resume of the errors of fact and interpretation in your most recent wire.

In closing, I wish to add only that I am still willing to proceed to a contract under the conditions outlined above. As I have declared before, however, I do not feel that such a contract is a necessary preliminary to your support of Proposition One, or the vote of the people on Proposition One on November 8. In the end, of course, we must both rely on the wisdom and sound judgment of the voters. Whatever the future course of our negotiations, I am content to leave the decision in their hands.

Sincerely

EDMUND G. BROWN, Governor

SUMMARY OF ERRORS OF FACT
OR INTERPRETATION IN YOUR TELEGRAM OF OCTOBER 4

1. It calls for a definitive contract before the election, the terms of which will give them (the voters of Southern California) some measure of protection for the billions of dollars for which they are asked to commit themselves.

As should be clear to all concerned by this late stage of the negotiations, the State is committed not to spend any Bond money until contracts have been signed for at least 75% of the water involved. The protection exists whether the contract is signed now, next year, or the year after that. Without the participation of MWD or the areas it represents, the project cannot be built.

2. As for "erroneous advice" from my staff on your position on the matter of the effective date, there was none. My position was taken as a matter of principle, and what I consider to be in the public interest, not on whether your Board or some other contracting agency might or might not find it acceptable.
3. It is not "conceded by all that it (the surcharge provision) would make the district violate the provision of the MWD Act". All do not agree. Furthermore, as we understand it, the MWD now has variable charges for water.
4. The State has never asserted "the right to turn off the water supply of the 7,500,000 people in this district in the event of a violation of the surcharge provisions".

The last language submitted on the subject did permit closing off water supplies to individual agencies in violation, but we are agreeable to a change even in that provision--perhaps by a method of suit for recovery of the surcharge.

It has never been contemplated that the whole district would suffer from violations within a given member agency or a water user.

5. The State does not wish to "dictate how much water this District must take from the East and West branches" as you state. The State is willing right now, and has been from the beginning, to negotiate with you as to the specific amount to be included in the contract with respect to deliveries to you from each branch of the aqueduct. It was your own representative's request to delay a decision on this matter that necessitates the language in the contract as now drafted. It is not something, as you state, that is a "last minute proposal by the State".

6. The State is not attempting to dictate "how much subsidy in effect this district must pay for the benefit of other contractors". The State is not suggesting that your district subsidize other contracts in any respect. We are saying that the MWD can not, as you would apparently wish to do, be in the position of vetoing service to other areas in the South which are not a part of MWD, or of vetoing construction of the East Branch Aqueduct. The cost to MWD will not be greater under the arrangement we suggest than it would be if the MWD took all delivery from the West Branch. As we understand it, your own engineer recommends that you take delivery of a part of your supply from the East Branch.
7. You are not being asked to be "the Agency which must pay all deficits arising out of the so-called financial inability of other areas to pay their fair share". The MWD is asked only to pay its own share of the cost of the works necessary to serve it and no more. The formulae for determining what you will pay have been worked out with your District and in many instances have been suggested by you. The MWD is being asked to do no more than any other area.

Brown: had the good sense to go through with it because it will be a lifesaver for them in the next twenty years. It has to be completed though too. I'm urging my son, at the present time, to complete and build this project; get it done, put your whole force behind it. Of course, Jerry's lost some of his muscle by running for the presidency.

Chall: We're really moving to the end [of this session].

Brown: I think that's a pretty good session. I think we've done pretty well.

Chall: If you can spare another half-hour or so I'd appreciate it.

Brown: How much more have you got? I'm sleepy!

Policy Decisions on Power and Pricing

Chall: [chuckles] I know you are. I think you've probably handled most of this material on the outline. Let me go back a moment and ask you how you felt, even though Kennedy lost, how you felt about the passage of the bond act. Was that basically more important in the long run to you than winning or losing Kennedy?

Brown: No, I'd say they were both equally important. I wanted Kennedy to win in California. Of course, he won the presidency and losing California was secondary, but it was somewhat of a blow to the prestige of the Democratic governor that he couldn't carry his state for Kennedy. But Nixon was a hometown boy. He'd never been defeated in California up to that time. I was the only one that ever defeated him in any campaign in California. But in view of the fact that Kennedy was elected president, it didn't make any difference whether he carried California or not. The water project, if it had gone down, I really feel it could have affected the lives of human beings in this state and I think it's a monument to me and I'm very proud of it.

Chall: Do you think that it would have been possible to have passed another bond act--to have gone through the same routine again and passed it?

Brown: I never could have gotten the water project through the legislature again, and nobody's been able to get anything further to develop the water project. The opponents of it, they're a minority, but they've become so strong that it's hard to fight them. You want to realize that Northern California, they really get their water out of the Sacramento River and they don't need the project. They need flood control. San Francisco gets water from the Hetch Hetchy, Oakland gets it from the Mokelumne River, they don't need it. Fresno and those areas have the reclamation project. So when to build anything further,

Brown: you really have a minority interest to complete it. So it's really very difficult to get people of San Francisco or Berkeley to do anything for Los Angeles. All of those Northern California places could get by. But Southern California with its hordes down here and great development--it's going to get worse. You've got some great agricultural areas too in Ventura County and Santa Barbara County. But eventually I think this whole great area down here will become a metropolitan area.

Chall: And the project will be paid for by water bills?

Brown: Right.

Chall: There was a great hope for atomic energy in providing desalinization and also getting the energy to pump the water over the Tehachapis at a very low cost. Was this a disappointment, an unexpected problem when you had to put that off?

Brown: Yes, as a matter of fact, we worked very closely with Admiral [Hyman] Rickover. Did you know that?

Chall: I read it in some report, and Mr. Warne discussed it.

Brown: Yes, Admiral Rickover came out and sold us on the breeder reactor. We were going to use the breeder reactor in the valley to pump the water over the Tehachapis and Bill Warne worked with Admiral Rickover. I met him and Admiral Rickover was enthusiastic. They would have paid a substantial amount of the cost because it was to be experimental.

Well, after we worked it, after the bond issue was all over--I can't remember when it was--Admiral Rickover called me up and said, "I've got to fly out to see you." So he flew out to see me and he said, "I'm sorry but we can't go ahead with the breeder reactor. Our experimental plan indicates that we cannot control that heat in the breeder reactor and therefore we have to abandon the project." Well, that was a big disappointment.

But then after that, we entered into a contract with all of the water people to bring power down from the Columbia River, an intertie that we built. That expires in 1982 and we got a very, very favorable contract; but it expires in 1982 and they're going to double the cost of that. Power at that time is going to go up tremendously.

I would have favored a nuclear plant there in Kern County, to use the waste water, but it was defeated by a two-to-one vote, and now that they've had the Harrisburg, Pennsylvania disaster it looks to me like nuclear's dead. So this is going to increase the cost of the project. I don't think you're going to build any more nuclear plants for a long, long time. They've become very expensive too--forgetting

Brown: about the safety of them. The economic cost of nuclear is almost even and it will go up more in the years ahead to build these projects. So we're going to have to do something else.

We've got a real problem on energy, not only in the water project but in everything else we use. You run into these environmental problems again in trying to get oil or LNG [liquefied natural gas]. Oil is dangerous in the sense that if the ship should sink it would pollute the beaches. They had one up there and it scared us to death, off of San Simeon the other day. Of course, LNG is potentially dangerous too. If that liquefied natural gas escapes and becomes gas again rather than liquid, that can be a potential explosion. Nuclear is gone. You have some thermal and we have developed that. Solar, I don't think there's enough solar and it would cost too much to produce it. Oil is so expensive. We have real problems on energy.

Of course, this will affect the water project. Hydro. We have most of the hydro that we can develop in the state of California. I don't see anybody really selling the people on this. I'm thinking of having a press conference in Sacramento and talking about it a little bit.

Chall: Going back now to the last few years of the legislature, and your terms as governor. When I laid out the activities of the governor and the water project between 1960 and 1965 I noticed that many of the central decisions had to be made by the end of 1963 because that's when the contracts were made final. At that time you had the three law cases being decided with respect to the bonds. Now, in between, Richard Nixon ran for governor. What do you suppose would have happened to the water program if Richard Nixon had won?

Brown: I can't remember that being an issue in the campaign at all. I can't remember anything about it. But I think the project had sufficient impetus and because he was from Southern California he probably would have pursued the same general principles that I followed.

Chall: As you know, the legislature was given a chance to take one last look at the contracts and the program before the contracts would be made final. You allowed them the 1961 legislative session in which to do it. But again you managed to keep out all changes so that the prototype contract with the Metropolitan Water District was safe.

Brown: Well, Miller and the "river rats" fought the project from pillar to post in every place. I just had enough votes to beat them on the thing and after the bond issue went over that was such a feather in my cap that I regained some of the prestige that I lost by reason of the reprieve in the Chessman case. I lost a lot of my muscle in that Chessman thing. It was a bad decision. It was like my son's decision on this constitutional amendment. I mean this has really hurt his prestige, in my opinion, terribly.

Chall: But the Chessman case was a philosophical matter with you. You wouldn't have done anything else; even in retrospect do you think that it was something that you would do again?

Brown: The Chessman case in retrospect, I think I'd have to do it again, although I'm bothered by the ethical question. The man had been convicted, he had a fair trial, he unquestionably was guilty. My caveat was that I didn't believe a person who committed the crimes that he did, that he didn't have exactly a fair trial. It affected my sense of justice. But should you let one man's life affect all of the other things that you're doing, assuming I was a good governor, assuming that I had a compassion for people that needed the help of the governor. Should I let this man die, or save him, and hurt my prestige--which it did--with the blind, and the totally disabled, and everybody else? I could have been defeated by Richard Nixon as a result of the Chessman case.

It made me [seem] a vacillator and a softie on crime and people were so outraged at Chessman that they wanted him killed. It's a tough ethical question and I've never really solved it in my own mind yet. I've talked to Jesuit priests about it and it worries them too.

Chall: What led up to the policy that you enunciated to the legislature in 1961 about the sale of water to those landowners with 160 acres or less and those with more: that the price of water would be based on the actual cost of the power to their land, if they had 160 acres or less, but if they had 160 acres or more they would receive the water for the market price of the power used to pump the water to their lands. Now this was considered a very important pricing policy that you made. It was first enunciated in your speech on January 20, 1960, over the radio.

Brown: Well, you see this was a compromise on the acreage limitation to encourage the small farms.

Chall: You asked the legislature to consider it. How did you work that idea out?

Brown: You see, I had given myself the power to make these decisions. That was the beauty of supporting the reorganization of the water administration. Did you give me a copy of this speech?

Chall: No, but I have one here.

Brown: Let me have one. I'd like to read this. It's interesting.

Chall: Now, these are the only last couple of pages.

Brown: That's all I need.

Chall: Here it is; that's for you. I've got some other things here but I don't know whether you need them.

Brown: I don't remember this now. When was this? Do you remember?

Chall: In 1960. I think I have a little note on top.

Brown: [reads] "Address by Governor Edmund G. Brown, California Water Program, Wednesday, January 20, 1960, 6:30 p.m." This was before the bond issue was passed then. The bond issue wasn't passed until November, 1960.

Chall: So this was the beginning of the enunciation of a policy?

Brown: Yes. You see, I was trying to get the support of the Democrat liberals. They were offended by the fact we didn't have an acreage limitation in the bond act itself. Of course, they fought us. So we threw them a bone in the thing.

Chall: It seems to be a rather small bone.

Brown: Yes, it wasn't very substantial and it had no effect upon big or small farms either. Well, we never expected to get enough money from the sale of energy out of the dam to do much more and we knew we'd run out of it by the time it got down here.

Chall: Do you think it satisfied them?

Brown: No, I don't think it satisfied them. The people that fight for the acreage limitation are really pretty idealistic, tough-minded people and nothing will satisfy them except the breakup of these big farms. They continued it under the Carter administration. Even though they haven't enforced the acreage limitation in Imperial County since 1930--it's almost forty-seven years--Carter comes in and he tries to put it into effect down there. Well, nobody's for that now. Land has been bought and sold based upon no acreage limitation. It would be very unfair to bring it in now.

Chall: As you quoted a little while ago, when you were setting up the policies for the bond act, you were planning to put all of the tidelands oil funds into the water plan.

Brown: Not all of it.

Chall: But a large amount.

Brown: I think we were, yes, but we had to take--

Chall: You had to start making some concessions by about 1963 or '64. Everybody apparently wanted to get in, get something out of those tidelands.

After months devoted to this study by our water experts and other outstanding engineers, water lawyers and economists, I believe we have arrived at equitable and workable solutions to these controversial issues.

First, we must recognize that except in the early years when the amount of water being pumped will be relatively small, the proposed project will consume more power than it produces. This is caused by the tremendous electrical energy needed to pump water over long distances and high mountains. Since over the long run this will be a power-deficient project, we are not able to embark on a substantial power marketing program. There is thus little reason to become involved in the public vs. private power controversy.

To the extent, however, that power may be available to sell for a period of time, I have concluded it should be sold at market value. This income can be applied to help meet the costs of the project and thus keep down the price of water. I want to stress just as strongly as I can that the purpose of this project is to supply water vital to California's growth and prosperity. That water must be supplied at a price people can afford to pay.

I also want to emphasize that to the extent power is available, it shall be sold under provisions of existing law which grant a preference in such sales to public agencies.

Now, I would like to discuss the second and related question. This involves distribution of the benefits of project water in an equitable manner. It is the issue sometimes referred to in terms of the "160-acre limitation," or of "unjust enrichment".

I firmly believe that we have the responsibility to see that no one receives a disproportionate or lion's share of the benefits from a publicly-financed project. In addition, I think that the development of small farms should be encouraged.

I believe we can attain those just and fair ends without trying to obligate or coerce anyone to sell or divide his land in order to get water. We are therefore establishing a fair price differential to take care of this situation.

On land in excess of 160 acres, the price to be charged shall be the cost of delivering the water, including the market value of the power used to pump it to this land.

For all others -- which shall include the overwhelming majority of customers in both the cities and farm areas -- the price shall be cost of delivering the water, including only the actual cost of the power to pump it rather than the market value of that power, less the amount of the benefit from any sale of power outside the project.

I believe these policies are fair and workable. They will give the small farmer a break in his battle to compete with the big mechanized arms -- yet they will not seek to force anyone to break up what he owns or pay more than is reasonable for delivering the water to his land. The principle of differential water rates for large and small farmers is already in effect in federal law in the small projects act sponsored by California's Senator Clair Engle. I believe it is a just and sound principle to apply to our program.

I would like to discuss other details concerning the project with you tonight, but there is not time. Tomorrow, therefore, I shall release in Sacramento a detailed statement of contract principles recommended by the State Department of Water Resources and approved by me.

The statement will cover such basic matters as assurances of continuing supplies of water to all contracting agencies, water rate estimates, and number of other provisions.

The people of the State of California will then have before them a comprehensive picture of what we are asking them to approve in November. I shall therefore not call a special session of the Legislature on the water program.

I am quite certain that these policy decisions won't satisfy everyone. But, I believe sincerely that they are equitable, that they will work, and that they will have the approval of the fair minded majority. No one is going to get all he wants in a project

engineered to help all of California. But if we work together and get more water for our State, every Californian -- and every community -- will benefit, whether directly or indirectly.

Above all, I want to emphasize that petty carping and the voices of those of little faith must not be permitted to cloud or defeat this massive undertaking to meet California's water needs for the next several decades. Nor can there be any politics involved either partisan or personal. We need an end to endless argument in which each speaks only his own self interest. There is need to recognize a larger interest that benefits and brings together all of our State.

Finally, I want to assure you that the laws of the State of California already require that rates charged for water and power from a project such as this must be sufficient to pay for all construction, operation and financing costs. This means that the project will be paid for by those who receive its benefits, and that it will not be charged in any way against those who receive no benefits.

Reputable independent financial experts have concluded that the State can most certainly undertake to issue the large amount of bonds authorized by this project and still have bonding capacity to meet other great public needs. And in the most fundamental economic sense, we cannot afford not to develop our water resources. It is an investment for our future. We have already seen in the great Central Valley Project how water resources development can make our land and economy bloom for the benefit of millions of people.

California's growth and prosperity require we move ahead. Each of us has a responsibility to help assure that.

I urge your support for the water bond issue on the ballot next November.

Thank you, and good evening.

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Brown: I think we had to take money, we had to put some in the schools, didn't we?

Chall: Yes, you did, and so it finally developed that instead of what would have been an expected average of something like \$20 million a year, into the water project, it was cut to \$11 million in various ways. Do you recall how the Department of Water Resources reacted to this because this was the way they had of financing the project and developing plans for building on the north coast. It was set into the law. So by cutting back on the money you were in effect changing the way in which this project could be financed.

Brown: I don't remember that. I remember cutting back from twenty million to eleven million, and I remember the discussion as to where they get the money and as I remember it they could still finance it with the contracts that they had.

Chall: You don't remember that they were concerned about this at all?

Brown: No, I don't. No. I remember that we were concerned about--I can't recall the concern.

Chall: In 1965 you vetoed a bill that was set up by Carley Porter which would have allowed \$5 million in nonreimbursable costs from the tidelands oil fund, and guaranteed annually \$5 million when Davis-Grunsky funds exhausted projects. [AB 1147]

Brown: I don't remember why I vetoed it.

Chall: Well, I suppose you didn't want additional tidelands money going into Davis-Grunsky projects or any other projects at that time.

Brown: I probably didn't want to extend Davis-Grunsky any more than it was. You see, we'd allocated X number of dollars to Davis-Grunsky and that's all I wanted, and they were constantly trying to get more. Carley probably tried to accommodate them.

Chall: Yes, because in 1966 [AB 12] a somewhat similar bill went through without the same kind of Davis-Grunsky involvement and you signed the bill.

Brown: Oh, I did?

Chall: Yes.

Brown: Well, I'm not clear on that.

Chall: I didn't ever check back to find out what happened to a request that you made to the legislature in 1964 for a \$398 million bond issue for financing additional capital construction facilities of the State Water Plan. Do you recall asking for that in your budget message of 1964?

Brown: No, I do not, but I know there was never another bond issue passed. I must have asked for it but I didn't get it. Unless it was a revenue bond issue, unless we were going to sell some revenue bonds of some sort. We had to scrape and pull to put this project over. I mean don't kid yourself. [laughs] It was a close fit and \$1.75 billion was about all that we felt that we could get a bond issue. We were afraid to make \$2 billion. It was like \$1.99 rather than \$2.00. We just thought that sounded better to the people.

Chall: Even though you all knew that it was going to cost considerably more?

Brown: Well, we weren't sure. No, we weren't quite sure how much it would cost. We felt that \$1.75 billion, with those revenue bonds, with the sale of power, and the tidelands oil funds, we'd be able to get by. They figured it out. No, we did not deceive the people on that, but we knew it was going to be pretty close. It's awfully hard to project yourself ahead fifteen years to know what the inflationary rate is going to be in these things.

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Chall: I wanted to read to you a statement made by Erwin Cooper in Aqueduct Empire, page 240: "Seen in the light of that polarization, the fact that Governor Brown successfully welded California's warring halves together long enough to synthesize a workable water formula looms all the more as a remarkable feat of statesmanship." Do you like that?

Brown: Yes, I love it.

Personnel Appointments and Conflicts##

Chall: I wanted to ask you some questions about personnel administration relating to the project. Gradually you pulled William Warne in from the Department of Fish and Game, to agriculture, to water. Did he seem the best choice to you at the time?

Brown: He seemed like a very strong administrator to me and he had no hesitation in giving me advice and in disagreeing with me. I didn't want "Yes" men around me. I had read of his record and that Senator Sheridan Downey had attacked him. All of those things played a part in my choice.

- Chall: Your relationship with him during the years that you were developing the water project? How were they?
- Brown: Great, and up to the present moment we're still very, very close personal friends--all the people were.
- Chall: When Hugo Fisher came in as the head of the Resources Agency presumably over Bill Warne and other department heads, and at the same time the water program was being developed, how were relationships developed among you and Warne and Fisher. Warne, as you said, was a tough administrator, and he knew where he was heading. Was it difficult for him to work between you and Fisher and did you require this?
- Brown: Hugo had been a state senator. He had been one of my strongest supporters in the state senate. He was defeated in 1962 by some Republican (I can't remember who it was) down there. [Jack Schrader] But he didn't know as much about water as either Bill Warne or Ralph Brody. So even though he was in charge of natural resources, I tried to keep him out of water, and my reliance on water was upon Bill Warne, not on Hugo. But Hugo was kind of a dominating guy and I don't think the relationship was very good between Hugo and Bill Warne. But Bill knew that he had my support.
- Chall: What about relationships that might have been difficult because you appointed Abbott Goldberg as the deputy in the Department of Water Resources while he also acted as your counsel on water matters? Was this a potential and actual problem?
- Brown: We didn't have any place to put Abbott, you see. There was the chief counsel. We had to go through the attorney general by reason of my original fight to separate them and he was in the attorney general's office. But I wanted him on a full-time basis on water. So the only place I could put him was deputy director of the Department of Water Resources. But he got along well with Warne, although he's another stubborn guy and they differed philosophically in some respects but it all worked out okay.
- Chall: So you probably did have some--
- Brown: Oh, I had a lot of personnel problems. I had to be like a baseball manager--you know, when to take out a pitcher, and when to put him in, and when to let somebody move in one direction, and move in the other. It was a constant battle, but it never reached a point of fisticuffs or anything.
- Chall: Or anybody resigning in the middle of important negotiations?
- Brown: No, no. And it was tough keeping Harvey Banks because he got pretty angry with Ralph Brody at times. But I was afraid the damn bond issue would go down the drain if I didn't keep Harvey in there. I mean he was the man that gave respectability to my liberal appointees.

Chall: Yes, and the fact that some people, like Bruce Allen, said that this was just a way for you to look awfully good so that ultimately you could run for president.

Brown: Did he say that?

Chall: Yes.

Brown: Well, I couldn't run for president during the first two years. My son did, but I decided I couldn't do it.

Chall: Now, I have some material that I got out of your papers which you deposited in The Bancroft Library and it indicated that Abbott Goldberg and Attorney General Mosk were in total disagreement on how to proceed with a case. It happened to be Rank versus Krug. I don't know what the outcome of that was, but Mosk had made up his mind that the state would not be a party to the case after the opinion had come out of the Ninth Circuit Court and Abbott Goldberg was very angry and I think he directed a memo to you.

You had been attorney general and you knew that problems were going to come up between the attorney general and department counsels with respect to water. In your testimony before the Weinberger committee you had said that the governor was going to be the person of last resort, but chances were that the attorney general was going to make the final decision anyway. How did you handle problems of this kind between Mosk and the department heads, and counsels, particularly with water?

Brown: Well, of course, the attorney general is an independent constitutional officer and the governor can't fire him or hire him, but you're married. When I first became attorney general Warren was the Republican governor and I was the Democratic attorney general. But I always tried to serve the governor. He was elected by the people. He was the person who was supposed to make the decisions. So I went along with him. Now, Stanley, of course, had an independent, philosophic view that sometimes agreed with mine and sometimes didn't. Stanley's a damn good lawyer. I mean he's a good associate justice of the supreme court, and the fight between him and Goldberg was really a philosophic fight. Abbott had been working on water far longer than Stanley Mosk. Stanley had been elected at the same time as me, but he had been a judge down in the superior court of Los Angeles County. But he was not an expert on water law.

Now Rank versus Krug, I can't remember what happened. Did that go to the Supreme Court? Did Abbott take it to the Supreme Court?

Chall: Yes.

Brown: I think I permitted Abbott to take it to the Supreme Court on his own. I think that's what happened. But I'd be in a very peculiar position if I appointed a lawyer to handle a case before the Supreme Court and the attorney general of the state would oppose the lawyer that the governor appointed, particularly when they're both of the same political party.

I ran into that in another matter. I ran into that in a case involving the El Paso Pipeline where I supported the dismissal of an anti-trust case--it has nothing to do with this. The State Board of Equalization, by a four-to-one vote, went along with me or I went along with them. But Bill [William] Bennett, who's now a member of the State Board of Equalization, Bill Bennett went into court and argued as an individual, as the president of the Board of Equalization and, by golly, he won the case in the Supreme Court all by himself. As a result of that, the El Paso Pipeline had to break their plan to purchase the Pacific Northwest Pipeline. Bennett had always accused me of taking a bribe or some other damn thing in the case which, of course, was nonsense. But we had a real rift which has never been cured.

Chall: So in a case of this kind, Rank versus Krug?

Brown: I can't remember what happened. I can't remember. Abbott Goldberg would know. Are there any letters or anything on that?

Chall: I didn't check any further. There may be. I just took a note on that in order to discuss matters of personnel and problems of jurisdiction.

Brown: Rank versus Krug was on the San Joaquin River. It was a question of how much water should be released. What Abbott wanted to do was to pay the farmers and to take that water because they had another source of water from the Friant Canal. It was not really the big policy issue. Rank versus Krug, however, did involve who controlled the water of the river and Judge Pierson Hall was the judge in that case and he was very anti-federal government and Abbott Goldberg was very pro-Bureau of Reclamation and [Department of] Interior. He felt that he had a much broader philosophic base with the national government than you did with the local water users.

Chall: I'll find out how that came out but if you allowed Abbott Goldberg to take that to the Supreme Court, that meant you had to get Mosk's approval on that.

Brown: I probably did but I can't remember what actually happened. I don't know whether that's in here or not. [goes through papers]

Chall: No, I don't have any court cases to talk to you about.

Governor Explains Farm Water Rates and Effect of Excess Acre Surcharge

Last August the California Farm Research and Legislative Committee asked Governor Edmund G. Brown to clarify the pricing of agricultural water from the proposed California Water Plan at rates farmers can afford (see October FARM REPORTER) and to explain the surcharge provisions proposed by him as a means of preventing "undue enrichment" of corporation farms and large landowners. Subsequently a CFR&LC subcommittee discussed the matter with Ralph Brody, Brown's Water Advisor, and members from the Dept. of Water Resources staff. Here is the Governor's reply to Mrs. Grace McDonald, Executive Secretary of the Committee.

Dear Grace:

This is with reference to your letter and subsequent conversations with Ralph Brody and others of the Department of Water Resources staff regarding the matter of ability to pay upon the part of agricultural users of water from the state project and the surcharge provisions which are being included in the contracts we are presently negotiating.

Insofar as the ability of agricultural users to pay is concerned, I must agree with your comments that such ability is limited and that the unit cost of agricultural water is high. I agree, also, that if our agricultural economy is to be sustained within the state project service areas some manner must be found by which assistance can be provided to agriculture. This problem has been the subject of discussion by my own staff, the economists in the Department of Water Resources, and our financial consultants whose reports should be forthcoming in the not too distant future.

The problem with respect to agriculture arises principally during the build-up period during which there is less use of water but high capital costs to be met. This results, of course, in a higher unit cost of water than would be the case if full use were being made of the water itself. In addition, even under full use agriculture has some difficulty in meeting the full unit cost of water.

We are making provision for meeting this problem in two ways. In order to spread the cost over as large a tax base as possible within the areas directly benefited, we will require that over-all master districts be formed to contract for state project water within these agricultural service areas. This is justified by virtue of the fact that the availability and use of the agricultural water will benefit substantially those areas which are contiguous and adjacent to them.

This is a practice commonly followed by irrigation districts at the present time. The agency, as irrigation districts do now, would raise its funds by means of an overall tax within the area to meet part of the costs, and the remainder of the costs would be recovered by means of tolls for water furnished. This is the practice followed in Santa Barbara and Solano Counties and many other areas. It has the effect of relieving the burden on the part of the water users.

The second method we have developed can meet the problem during the period of build-up in water use. We are providing in our contracts with metropolitan areas, such as the Metropolitan Water District, that in the initial years municipal, industrial, and domestic water will return their share of the cost with higher initial installments but gradually reducing in later installments and agricultural users starting out with low installments and increasing.

The final result is that neither agricultural, industrial, nor domestic users pay any greater share of the capital investment over the entire project repayment period than they would have paid had their installments been on an equal annual basis. However, the annual amounts paid by agriculture in the early years will be less, thus reducing unit cost of water to them in those years when the agri-

cultural areas are not fully developed.

I sincerely believe, and the economists with whom I have discussed the matter agree, that this can and will meet the problem of the agricultural areas.

In connection with the surcharge, I am confident this matter is not completely understood. There has been a considerable amount of sentiment for federal acreage limitation. Even the Federal Congress has recognized that the historic federal acreage limitation is not suitable in all instances. For example, the Federal Small Projects Act follows essentially the same procedure which we have adopted. Senator Paul Douglas of Illinois, perhaps the strongest advocate of acreage limitation, in 1958 introduced a bill in Congress which would have provided for a procedure essentially the same as we have adopted. Actually, those who support acreage limitation differ from what we have done not in the matter of policy, for we are following the policy of acreage limitation, but rather in the matter of mechanics.

I consider the mechanics which we have adopted will be more effective than the federal acreage limitation. The cost of water from this project will be high in the first instance. When one considers that it will be from \$15 to \$20 an acre foot canal-side and when one adds to this the surcharge of \$2 to \$3 per acre foot and compares this total canal-side cost with the charge being made for canal-side water on the federal Central Valley Project of \$3.50 an acre foot, one can see the advantage to the small landowner.

In addition, I believe it is not commonly understood that when we mentioned a surcharge of \$2 to \$3 an acre foot this actually means a price differential of \$8 to \$12 per acre. This results from the fact that it is necessary for most crops to have irrigations of from 3 to 4 acre feet per acre. This means, therefore, that the production cost from the standpoint of water allowance on lands in excess of 160 acres will be from \$8 to \$12 more per acre than it is for the smaller owner. This in my judgment will tend to discourage the retention or accumulation of large land holdings.

I hope that the information I have supplied will be of use to you, and I wish to express my regret for the delay which has been occasioned in supplying you with this information and my sincere thanks for your interest in this matter.

Sincerely, EDMUND G. BROWN, Governor

The Conservation Story

Land, Wood & Water. By Senator Robert S. Kerr, Fleet Publishing Corp., New York, \$4.95.

Land, Wood & Water is an eloquent and comprehensive study of all phases of conservation. It gives a full and accurate picture of the history and benefits of modern water development, irrigation, flood control, navigation, hydro-electric power, recreation and soil conservation. Written for the layman as well as the expert, it should be required reading for all high school and college students.

The author, Senator Robert S. Kerr (D-Okl.), chairman of the Select Senate Committee on National Water Resources, is well qualified to discuss conservation policies and programs. His committee gathered first hand evidence from all parts of the nation concerning the urgency of conservation.

Senator Kerr devotes several pages describing the crusade of Californian George Maxwell before the turn of the century to swing public opinion toward reclamation policies which would benefit homemakers rather than speculators. Success crowned his efforts when Senator Francis Newlands of Nevada, with whom he worked closely, sponsored the Federal Reclamation Act which was signed by President Theodore Roosevelt, June 17, 1902.

Maxwell died impoverished in 1933. His ashes rest at his birthplace near Sonoma where his daughter, Ruth Maxwell Denny, with very little public help, maintains in his honor the Maxwell Memorial Park Conservation Center.

The San Luis Reservoir Joint-Use Contract##

[Interview 17: May 8, 1979]

Chall: Here is a sort of chronology of the San Luis Reservoir decision that might help you.

Brown: [pause to look through papers] I can't remember the chronology of these things.

Chall: That's all right. You probably recall then that one of the major sticking points was the fact that the House and the Senate took out section 7 of the bill which would have exempted the 160-acre limit from the San Luis contract and then left it up to the secretary of the interior to work out an agreement with you. Now that created a tremendous problem, of course. I've noticed that there was a great deal of scurrying around during the year in which the secretary was making his decision about the joint-use agreement.

Brown: Let me see if I make it clear. Under the bill that was signed, they exempted the acreage limitation from the service area of the San Luis Reservoir.

Chall: No, they left it in.

Brown: Oh, they left it in?

Chall: Yes.

Brown: So you had to have the acreage limitation?

Chall: That's right. But then the bill said that it was up to the secretary of the interior to sign an agreement with the state and didn't mention the 160 acres. But Congress had left it in the law. Now it was up to the secretary of the interior and the Bureau of Reclamation to work out a contract with the state on the San Luis Reservoir. It would have seemed that Congress wanted the limitation.

Brown: Kept in.

Chall: So there was a year in which you had to work out matters. Let's see, the bill gave you until January 1, 1962, to come to an agreement or San Luis would be built by the federal government alone. This was 1961 and everything hinged on your getting the water plan through.

Can you recall what was going on in your administration in trying to persuade Secretary Udall to sign an agreement that did not include acreage limitation in the state project?

Brown: What was the period, what time was this?

Chall: Well, the bill was signed by President Eisenhower in May, 1960, and you had the whole year of 1961, after Kennedy came in, to work out a satisfactory agreement. It took the entire year right down to the wire. It was signed December 30, 1961. Now, what caused the problem?

Brown: Well, I guess the problem was that we had made a commitment, we'd made a decision that the acreage limitation would not be within the California Water Project. We were going to charge the users of the water a fair market value for their water rather than to limit it by acreage limitation. The reason we did that was because I was afraid if we got into a social theory like acreage limitation that the big landowners would put money in to fight the California water project. So I had to balance the equities of the situation: a water project or no water project with the acreage limitation in it. I personally did not believe in the acreage limitation as the best way to limit the size of a farm that got water. I felt that they should pay for the water and it was suggested to me by others that rather than a 160-acre limitation, or a 320 for husband and wife under the community property laws of the state of California, that it would be better to have a corporation with limited number of shares.

I felt that there were better alternatives than the acreage limitation that was passed in 1902 when they wanted people to come in and homestead their land and build it. I just felt that this was not the best way to do it. I read everything that I could on it and it became a real battleground between the liberals and the moderates and conservatives. The conservatives were against any acreage limitation. They were all for subsidy to the big farmers. Well, I was against that. I didn't want to let them have that water for three and one-half dollars an acre-foot on 90,000-100,000 acres of land. That was ridiculous.

Chall: They would have had to cut up their land holdings though.

Brown: They would have had to cut up their land holdings under acreage limitation. They would have broken down the farms into 320 acres. But, of course, I didn't think that land was worth \$1,000 an acre with water on it. That's a farm worth \$320,000 back in 1960. It was not a small farm! [laughs] I mean \$320,000 was a pretty rich farmer at that. So I didn't want to even subsidize him. So those were the factors and we finally negotiated, and I guess [Stewart] Udall finally gave in.

Chall: Yes, he did. Do you recall what made him give in?

Brown: Well, he and I were very, very friendly and we were very, very close and I don't know what compromises we made. Brody and Warne would remember that, but I wouldn't. I just know that we stuck tight on the

Brown: deal and Warne and Brody were both tough negotiators. I can't remember why, but I know I talked to the secretary about it. He and I worked very closely on a great many things.

Chall: It took so long for the decision to be made. Apparently it wasn't all that simple because there was concern that, after all, this was partly a federal project and if any federal funds go into it to help build it up then some obviously thought that the acreage limitation should apply. I was wondering whether the fact that you were a Democratic governor and you were coming up for reelection in 1962 had any effect on whether or not they were eager to figure out a way to--

Brown: Help me.

Chall: Help you.

Brown: Well, I think that probably played a part in it because I was Kennedy's campaign chairman in California, voted for him for president of the United States. Stu Udall was a very close friend of mine. He was a congressman from Arizona and we worked very closely together on water projects and I think that that played a part in it. We had already committed ourselves on our bond issue that there would be no acreage limitation and so I had to, after we made that decision, I had to keep with it or break my word.

Chall: What would have happened if the agreement had gone the other way, I mean if the decision of the secretary had gone the other way, that acreage limitation would apply.

Brown: I have no idea. I can't tell you; I don't remember.

Chall: Now, I did see some material in your papers--I was going through the Governor Brown papers the past couple of weeks--that some time in 1963, you were trying to change the name of the San Luis Reservoir, but I don't know what you were trying to change the name to. Was it Edmund Brown? There was some material in your files, just letters, saying, "We think it should stay San Luis; that's an historical name in this area." But I have no idea what it was that you were attempting. Do you recall?

Brown: No, I think they may have wanted to call it after Los Banos. What's the name of the town that's right there. Maybe it is Los Banos, I can't remember.

Chall: Los Banos is right there. That's where the reservoir is.

Brown: That's where it is, in Los Banos. I can't remember that. I'm sorry.

Chall: I see, but it wasn't after yourself?

Brown: No, I didn't want to name anything after myself. As a matter fact, later on Bill Warne wanted to name the Oroville Dam. He wanted to name it after me and call it the Edmund G. Brown Dam. As a matter of fact, he prepared the plaque and everything else. This was after I was defeated for governor and I wouldn't let him do it. I thought Reagan would change it back and then I would look bad, and it was self-perpetuating anyway. Then later on last year--this is additional information--Assembly Jack [John] Knox had a resolution all prepared and had the votes to call the aqueduct the Edmund G. Brown Aqueduct, from San Luis to the Tehachapis, and Jerry called me up and asked me not to do it. He pointed out to me that in Sacramento they wanted to call the auditorium after Earl Warren and the people voted it down, and that there was some resentment at all the things called after John Kennedy too, and some of them, like Cape Canaveral, went back to the original names, later on.

Chall: I wasn't able to figure that out and I thought somebody else someday might not be able to figure it out either. That's perhaps about all we can get on that subject--on the San Luis Reservoir.

Brown: You know, this water project interests me very, very much, some of these things that occurred. I may want to talk to you one of these days after I retire, which may be sooner than I think, about getting these materials and working on it. This is where I can spend a good part of my life in The Bancroft Library, writing and dictating and going over those things.

Chall: Oh, yes, your files are great once you start working through them and take the time to do so.

Brown: But you've got to take time; you've got to be patient with them, no question about it.

Chall: Well, it's all there. Here's some material on the Pacific Southwest Water Plan.

The Tug-of-War Between Arizona and California on The Colorado River

Brown: We were insisting upon 4.4 million acre-feet of water even though we lost the case in the Supreme Court. Arizona couldn't get the money to build the Central Arizona Project without our help and we had more votes in the Congress of the United States, and we worked hard, so we just filibustered it. We just wouldn't let central Arizona go through by the influence that we had. I went back and I talked with Senator [Carl] Hayden, who was a very elderly gentleman at the time, but a very pleasant old man. I met with him and we tried to work out a compromise, and apparently we did work out a compromise that we'd import more water into the Colorado. I don't know where that water

Brown: would come from. I haven't the slightest idea as I read this letter, but apparently they were to bring more water down, probably from the Snake or one of the other rivers into the Colorado, and then that would leave enough water for both the Metropolitan Water District and the Central Arizona Project. So the Central Arizona Project eventually went through. It's now being built. It will come on stream in 1982, I think, and when it comes on stream California will lose a substantial portion of water out of the Colorado.

We're going to have to have other water and they're dawdling up there in Sacramento today and no one's able to reach an agreement. Southern California is going to be in one hell of a spot in the next three years unless something's done. They're going to be in a tough spot anyway in my opinion.

Chall: Well, now, in addition to Arizona's wanting the Central Arizona Project and Senator Hayden being chairman of the Appropriations Committee which is a rather powerful spot to be in, California was also interested in getting the Auburn Dam and Folsom South Canal built and Senator Hayden for years had been sitting on that, so California had something to gain as well. There seemed to be tremendous controversy within your administration over the stance that would be taken--whether you were going to insist that California get an assurance of 4.4 million acre-feet of water annually, or whether they would have it for maybe 25 years or so and then it wouldn't serve them any longer. You apparently were at odds again with the Metropolitan Water District. They claimed, in their summer, 1964 News Report, that the latter "compromise proposal developed by representatives of Governor Edmund G. Brown and Senator Carl Hayden of Arizona, has been termed 'markedly inferior' to the Pacific Southwest Project Act by the MWD Board." They claim that your proposal would recognize the principle of protecting California's Colorado River water rights only for twenty-five years.

Brown: Oh, yes, I was fighting with them all the time. They took a very hard nosed attitude about everything. I mean they wanted to control the water in Southern California. As a matter of fact, they wanted to control the water in California. Our old friend, Joseph Jensen, he fought these battles and he was really a stubborn guy. On the California Water Project he wouldn't agree to it, wouldn't support the bill in the first place, because he didn't want the east aqueduct, number one. Number two, he wanted two pumps rather than one pump to pump the water up the Tehachapis. We were fighting with them all the time.

I think there was substantial agreement in Sacramento with Bill Warne and Hugo Fisher and the other people in our water department. We'd sit down and discuss it. We wanted Arizona to move ahead. As a matter of fact, we didn't see any reason why all these people should come to Southern California, from an environmental standpoint. We

Brown: wanted some of them to go stay in Arizona. I really think we were water statesmen where the Metropolitan Water District people were really water hogs. Of course, they had fought this thing out a long time in the Owens Valley, so they had a tradition of having difficulty in the development of Southern California. But they really had no broad vision and it used to annoy me and I used to laugh at it.

But I wanted Central Arizona to go ahead because I felt California had other water; we had other sources of water. It now develops that they're making wild rivers out of some of these other sources of water, so California can't develop its full potential. Even now I disagree with the environmentalists and the Sierra Club. I think that some of the Eel river should be built and developed, and they will eventually. Like this gasoline situation down here now where everybody's against everything but nobody's for anything.

Chall: According to a memorandum in your files there was internal disagreement within your administration. According to Abbott Goldberg's memo to you, in the group who wanted the status quo, that is, insuring the 4.4 million acre-feet of water before any bill goes through, were Kuchel, Mosk, Ely, and also Congressmen Sisk, McFall, and Johnson, and the Arizona state people. On that side also were Dowd, Corker, Grindler.

Brown: Yes, they were all together.

Chall: Then on your side, I gather, were Warne, Goldberg, Fisher, in helping you to take this modified stand.

Brown: The other people, Grindler, convinced Mosk that they were right in this thing. Mosk was a Southern Californian too and they wanted to protect California's water interests, and I suppose Stanley, as the lawyer for California, had to fight for it, where I was the governor in more of a position to make policy, in a policy position. Bill Warne and Hugo Fisher and I were all liberals. The others had been fighting Arizona for so long that they just had to continue to fight. It was like the Hatfields and the McCoys in Kentucky. They just didn't know how to quit. We wanted a compromise. I wanted Arizona to develop. I'd been long--as attorney general I had been completely disillusioned with Mike Ely and Mike Dowd and the Imperial Valley people who were completely incapable of any compromise of any kind, nature or description. They just wouldn't compromise and, of course, the farmers were the same way. I being a city boy--I really feel we took the statesmanlike attitude in this thing.

Chall: Can you recall any of the meetings that you would be holding in trying to work things out?

Brown: Oh, we had all sorts of meetings. I tried to get Stanley Mosk to go along with us. He wouldn't do it. Of course, Sisk, and Johnson, and Kuchel were very powerful members and it got into--it was rather a bit of controversy at that time. I can't remember who finally won it, but I remember this was one of the few times that Stanley Mosk and I had been in disagreement. I'd like to review that history and find out about it. But we felt that Mosk was influenced by one of the people whose name was mentioned there.

Chall: Dowd?

Brown: No. Let me see that.

Chall: Well, let's see, the names are also on this piece of paper.

Brown: Corker, Charlie Corker. Charlie Corker was a brilliant lawyer and Charlie Corker had influenced Stanley. He and Abbott Goldberg had fought. Abbott was a real interstate water lawyer. He was the one that got me to change in Ivanhoe Irrigation versus All Persons. He was the one that wanted, in Rank versus Krug, to permit some of the water to go down the stream. Abbott influenced me, had great influence on me in the long run, because I thought he was more generous in his attitude toward other states. These people were Californians first and Americans second, whereas we tried to be citizens of the United States and still assure the California people of their rights.

Chall: While you were then taking different stances it would have been quite difficult to get any bill through the Congress.

Brown: It was very difficult to do it. I can remember the quarrel, but I can't remember the eventual solution to it.

Chall: What happened, do you recall, when Mr. Lynch came in as attorney general? Did that make any difference in his relationships with Abbott Goldberg?

Brown: I don't think it did. I think he followed his deputies in the office. Tom had not had the contact with water that I had. He hadn't fought the battle. He'd been district attorney of San Francisco and he couldn't possibly have had time to get into it. Even though I appointed him he then became an advocate of the attorney general's position, the legal position, that they'd taken. I'm sure he didn't change it.

Chall: So your main activity then was in trying to persuade Senator Hayden and Stewart Udall to the California position that you had?

Brown: Well, remember my theory always was that the law of water is the law of water shortage and there was plenty of water in the West. I didn't care about how much money it cost. I felt the money would be spent.

- Brown: People would have it and I wanted to invest in a complete development of the water of the West for all the states of the West. I wasn't too concerned with expenditures of money. I was a reckless, profligate spender of funds and still am!
- Chall: Well, that's what seems to have made it come apart so that everybody could accept it--Senator Hayden and the Californians--was what Hugo Fisher indicates in his letter, that water was going to be found somewhere else and therefore it was no problem. However, as I understand it, the water was never found anywhere else because even though you set up the Western States Water Council, nothing came of the idea of importing water from the Pacific Northwest.
- Brown: Well, there has been no more water development since 1960 between you and me. They started the Auburn Dam and they started a couple of these other dams but they've all been fought by environmentalists and litigation and everything else.
- Chall: But the Oregonians and the Washingtonians did not agree to allowing the Snake River--
- Brown: They wouldn't let any water come out of the Columbia either.
- Chall: That's where it was supposed to come from. So now what happens? There isn't any water coming from the Pacific Northwest as had been planned or hoped for, and yet these projects in Arizona have begun and they're going to go through. So was it a hoped for pie-in-the-sky do you suppose?
- Brown: No, they're eventually going to have to do it. There may be some eight years of water conservation before they get through. We're growing now. Arizona's growing, California's growing, and the whole West is growing. They'll eventually have to build some very expensive projects. They'll be more expensive now than they were then.
- Chall: Coming from where?
- Brown: Well, they'll eventually get it out of the Columbia. Columbia doesn't need all that water that flows down there. It's ridiculous between you and me.
- Chall: [laughs] It never ends, the same questions. At any rate, Mr. Hayden did allow the Auburn Dam bill to go through and eventually, I guess, the other project went through too--for the Folsom South Canal.
- Brown: But they haven't built the dam yet. They're having trouble on design and things like that now. But they'll eventually build it. They'll come up with another one, but they're afraid of earthquakes. There's always opposition to those things.

Department of Conservation
Department of Fish and Game
Department of Parks and Recreation
Department of Water Resources
State Reclamation Board
State Water Quality Control Board
State Water Rights Board
Regional Water Pollution
Control Boards



THE RESOURCES AGENCY OF CALIFORNIA
SACRAMENTO, CALIFORNIA

February 3, 1965

FILED FEB 23 1965

The Honorable Edmund G. Brown
Governor of California
State Capitol
Sacramento, California

Dear Governor Brown:

Hugo Fisher

At your request, I have reviewed the draft bill to set in motion the Pacific Southwest Regional Water Plan which bill now has the support of Senators Thomas Kuchel of California and Carl Hayden of Arizona.

I find that the bill will accomplish the goals which you set forth in detail to Secretary of the Interior Stewart Udall on December 4, 1963.

At that time, you advised the Secretary that: "the Pacific Southwest can no longer afford the luxury of uncoordinated water development on a competitive project by project approach with each project depending on an admittedly insufficient stream. The major needs of the region can only be served by a regional program.

"Until the interested parties agree on a truly regional approach we think the Congress should shelve all project by project authorizations in the Lower Basin of the Colorado River. To do otherwise is either to provide for an expensive shifting of already acute deficiencies or to build substantial projects which will inevitably run short of water. Such an approach raises more problems than it solves."

To implement that theory, you proposed a Pacific Southwest Regional Plan. The draft bill would accomplish that purpose.

The Honorable Edmund G. Brown

-2-

February 3, 1965

You recommended that surplus water and power revenues within the southwest region be pooled to finance new works to import water to the Colorado River basin. The bill would achieve that goal.

You proposed that the Federal government import enough new water to guarantee a supply of at least 7,500,000 acre-feet to Colorado River users, thus eliminating the cause of friction between California and Arizona. The draft bill would accomplish that purpose.

In your December, 1953 report, you also recommended creation of a Regional Water Commission to coordinate project planning in the west and the draft bill would carry out that recommendation.

The most significant development in connection with the draft bill is the acceptance by Senator Carl Hayden of Arizona of the principle of assuring California her existing uses up to 4.4 million acre-feet until works are built to import water into the Colorado.

This priority, in substance, is the same as that you recommended to the Southern California water interests in January, 1964, and to Senator Hayden at the beginning of last year.

At that time, neither Senator Hayden nor our Colorado users would agree to this form of priority. Our users insisted on perpetual priority; Arizona insisted on a priority terminable in a period of years, even if no works were constructed to augment the Colorado water supply. Now both sides have accepted this intermediate position.

Having thus agreed on the contents of the bill, there remains the question of how to procure its passage. Senator Hayden says that he will attempt to procure Senate passage of the compromise bill once it has been passed by the House of Representatives. Senator Hayden points out that on two occasions in the past, the Senate has passed the Central Arizona Project Act only to have the bill fail in the House. He accepts the California priority, but only if he can be sure that the Central Arizona Project will be authorized in retrans for his doing so. Passage of the bill by the House would provide the necessary assurance.

I recommend that you urge the California members of the House to give this latest bill, which represents an accord,

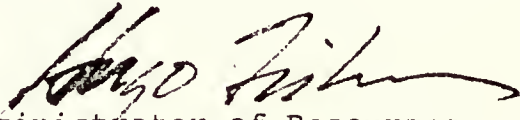
The Honorable Edmund G. Brown

-3-

February 3, 1965

their most earnest study, with a view to its early introduction as a united California effort to execute the compromise with Arizona.

Very sincerely yours,

A handwritten signature in dark ink, appearing to read "Hugo F. Zihl", with a long, sweeping horizontal stroke extending to the right.

Administrator of Resources

Relationships with Congress

Chall: I'd like to know a little bit about some of the other people with whom you had to work on this whole controversy. Can you tell me something about "Bizz" [Harold] Johnson and his role?

Brown: Bizz was the state senator, elected to Congress, a very close friend of mine. We worked very closely with him. He was with me, I think, in most of the things I did. We're still very close friends. He's a conservative Democrat, not a liberal Democrat. He comes from a conservative area that votes Republican usually, so he was lucky to be reelected and reelected.

Chall: Did you work with him closely on some of these water matters?

Brown: Oh, yes, I worked very closely with him. Yes, I did.

Chall: Irvine Sprague, how did he serve during this period?

Brown: Irvine Sprague was my Washington representative. I set up a Washington office. California never had that before and it was his job to work with the congressmen, the senators, and the administration. He had been the administrative assistant to Congressman [John] McFall and he was very much of a diplomat and politician. He knew the mind of the congressman because he had worked, as the administrative assistant, to McFall. He got along very, very well with them. He was very helpful to me, gave me lots of advice which I followed very closely. He was a great administrator and got along well with the senators and the California congressmen; I don't think relations were ever better then between the California congressmen; that lasted down to the present moment. Jerry has a fellow named Joe Beeman in there today who's nowhere near as effective as Sprague was. Joe was Phil Burton's representative and far more liberal than Irv Sprague or John McFall.

Chall: Did Sprague help write some of the bills that had to do with the water issues in Washington that we were just talking about?

Brown: No, he didn't write any of the bills. But he would act as a liaison between all of us in the thing. We'd tell him what we wanted and he would try to affect it. If he couldn't affect it he might suggest a compromise. He was not essentially a water man, didn't know anything about water, but he did know legislation, and he did know congressmen, and was very, very excellent. He later went with President Johnson as one of his administrative assistants and is now the head of the Federal Deposit Insurance Corporation, chairman of it, and a very, very able guy.

Chall: How closely did you work with Congressman [Wayne] Aspinall?

Brown: Well, we worked with him on water legislation. He was from Colorado and he was always suspicious of California. But I got along with him. I don't think he ever gave me any votes or anything. I can't remember. He was a Democrat too. I try to get along with everybody. I was friendly with all these congressmen and went out of my way to help them where I could in various things, and I worked with the governors of all the western states too.

Chall: Was it important for you as governor to work with the people in the Congress who had these key spots?

Brown: Oh, a hundred percent! I mean we had to get money from them, we had to get legislation on various things, and it was one of the most important parts of my administration to work with them. Now, Aspinall was the head of the Interior and Insular Affairs Committee after Clair Engle went to the Senate, and he was a key man in all this legislation. The chairmen of those committees were all powerful at that time. If they said no, you couldn't get anything through. So I had to work with them very, very closely. Of course, he and Clair Engle were very close friends too. But each one represented their own states. There was an element of real selfishness and parochialism on the part of these people.

Chall: So that just managing to get a regional water plan through was--

Brown: Was very difficult. Each one was suspicious of the other and, of course, there was great question of fact to as to how much actual water there was in these things.

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Chall: What about James Carr who was undersecretary in the Department of Interior?

Brown: Oh, yes, we were very close. He was Clair Engle's administrative assistant when he was a congressman. He came from Redding, California, and Jim and I were very close personal friends. As a matter of fact, I was instrumental in getting him appointed undersecretary of Interior by President Kennedy. He was one of the California appointees, and I recommended and fought for him. So he was always very, very close to me.

Chall: That would have been a key position.

Brown: Oh, it was a key position for us. We needed somebody in the Department of Interior. The relationship was very, very close between Udall, Carr, and myself, and my water people. Abbott Goldberg was always a little bit on the outside because he was the most liberal of any of them and the least states righter of the whole group.

Chall: Yes, I occasionally saw some little speeches from some of the Southern Californians who opposed his ideas.

Brown: Oh, yes, the Southern Californians, and the Metropolitan Water District, and the Imperial Water District, they didn't like him at all. The Irrigation Districts Association, which was financed by the big farmers--a phony organization. It really wasn't water development or small farmers; it was a protection of the big farms in California, obviously.

Pushing for the Peripheral Canal, 1965-1966

Chall: There's a letter, which I saw in your files, dated April 6, 1965, to Stewart Udall, regarding a meeting that you wanted him to have with Warne, and Fisher, and Mr. Shannon of fish and game to discuss the Peripheral Canal. This was in April, 1965. In September, 1966, which was a good year later, there were, in your files, hundreds of letters--which you kept copies of--which you had written to individuals and water agencies asking that they participate in the campaign to get the federal government to build a Peripheral Canal.

Brown: Oh, yes, I worked very hard to get that Peripheral Canal.

Chall: What is your recollection really of what was holding up the Peripheral Canal at that stage?

Brown: Well, the only thing that was holding it up really was, number one, financing--I mean money. They were beginning to cut back on water projects in the West. Number two, the Delta people were fighting it with all of their power. They felt that if they built the Peripheral Canal instead of the water going through the Delta where there would always be lots of water, they'd take that water out and they'd have to be dependent upon a water master to get their water. [pause]

You see how I was working on water all the time. Here it is now twelve years later, after I've gotten out, with no one that knew anything about water, so there has been nothing done except delay and stalling and everything else. It's like this gasoline shortage today. They're going to have the same thing in water later on. Although there should be far more conservation in water. There's a reckless waste of water by pumping and things like that at the present time.

Chall: Now that spate of letters came out during your 1966 reelection campaign. Was this also a way of showing the water people that you were concerned?

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September 22, 1966

Mr. Roland Curran
Box 15
Bakersfield, California

Dear Mr. Curran:

I am writing you because of your demonstrated interest in California water resources development, and more particularly because of the urgent need for authorization and construction of the Peripheral Canal as the great central link in both the federal Central Valley Project and the State Water Project.

You know of the great benefits to be realized from the Peripheral Canal. It will provide high quality water not only for use in the San Francisco Bay area, the San Joaquin Valley and Southern California, but also in the Delta itself.

I am hopeful that Congress will authorize the federal portion of this joint state-federal project, including integrated operation with the California Aqueduct, at its next session so we can meet the high water quality commitments of the State Water Project in the early 1970s.

You can help Californians attain the benefits of the Peripheral Canal by joining me in informing the people about this great and vital part of the State Water Project and by working with me to obtain early authorization and construction.

Together, we have achieved the unprecedented in water development in California in recent years. I am confident that together we will continue to keep efficiency and economy in every phase of the State's water development.

Sincerely

EDMUND G. BROWN, Governor

RG:jd

ROLAND CURRAN
President

59b

ROLAND CURRAN
Secretary

The *Mobilhome Corporation*

P. O. BOX 2445 1400 Q STREET
Phone 325-5078
BAKERSFIELD, CALIFORNIA 93303

September 28, 1966

Governor Edmund G. Brown
State Capitol
Sacramento, California

FILED SEP 29 1966

Dear Governor:


Thank you very much for your letter of September 22nd. I appreciate very much your personal interest in the construction and operation of the Peripheral Canal. This is a most important unit of our state water project, for it will insure the delivery of good quality water throughout the project's service area.

The Kern County Water Agency is wholeheartedly in support of the State's program in connection with the Peripheral Canal. We are more than happy to work with you and with the Water Resources Department in doing whatever we may accomplish in helping to secure its authorization and construction.

We are pleased to hear that you will be here on October 6th to address the luncheon that will be a part of the Tehachani groundbreaking celebration.

With best personal regards.

Very truly,


Roland Curran

RC:h

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Brown: A little politics, I'm sure that that was involved. I don't remember it, but I'm sure that that was part of it. You'd make more votes like that than you do out campaigning and telling about your record. It didn't do me any good though. [interruption: telephone rings]

Some Final Questions: The Democratic Party, the Metropolitan Water District, the Tidelands Oil Funds

Chall: When I left you a few weeks ago I still had a few questions. I thought I'd just go over them a moment and see what you can recall. With respect to the Democratic State Central Committee and the CDC, over the years when you were the governor and particularly when you were working on the water plan, how did you handle those two organizations who were committed to a rather liberal policy on water, with respect, particularly, to 160-acre limit?

Brown: Well, I tried to get them to go along with me. The CDC, of course, wanted the acreage limitation, so I was never able to get them to agree with me. Of course, environmentalists were beginning to move into the liberal ranks at that time and beginning to feel their power. But I made my own judgments, particularly during the second term--I didn't intend to run for a third term--and I would try to do the thing that I thought was best from what I considered my expertise, with a greater knowledge of the facts than the other people. So I tried to get them to go along, but if they didn't I moved along anyway.

Chall: You had told me the last time that you did have some contacts with the Metropolitan Water District during the time when you were working on the bond election and attempting to get them to sign. I wonder whom they might have been.

Brown: Oh, Joe Jenson. I met with all of them. I would meet with the whole gang of the Metropolitan Water District all of the time. I had a big fight with them because they wanted to control the California Water Project and we felt it was a statewide project and it would defeat it if Los Angeles controlled it. But they were adamant about it. They finally gave in because they had no other alternative. I think I told you that before.

Chall: Yes. I was wondering whether you had special contacts with one or another of the directors whom you could attempt to pull away from the center.

Brown: Gee, I don't think so. There was another fellow, I worked with. You don't ignore Los Angeles Water and Power in this thing either. They were a very, very important factor because they knew they were limited in their water. They were very, very helpful, and I worked with their attorney.

Chall: Kennedy?

Brown: No, [Harold W.] Kennedy was the county counsel. I thought he was a very stupid man. I ignored him. He didn't know anything about water. He'd make these ridiculous speeches. I mean he was a nice guy, but I just had no use for him. No, there was an attorney for the Los Angeles Water and Power who influenced me greatly. I can't think of his name now. He died. But he was truly a great lawyer. As a matter of fact, I offered him a judgeship and he turned me down because he wanted to work on water. He had been all through these things, and he'd come up and see me. He played a great major part in my decisions. We ought to get his name. You won't have any trouble finding it. I just can't think of it now. He died nine or ten years ago. He was chief counsel to the Los Angeles Water and Power. He was assistant city attorney working under Roger Arnebergh. But the way they do it, they have their own legal department, in Los Angeles, for water and power, like they have in the airport and the port commission. They all have their own attorneys that are there. He was the assistant city attorney in charge of water. He got more money, as a matter of fact, than the city attorney.

Chall: All right, I'll get that. So he was important. [Gilmore Tillman]

Brown: He was very important in the development of the whole California Water Project. He ought to have his name engraved. I can't think of his name.

Chall: Well, we'll find it. I believe they did come over to your side.

Brown: Oh, yes, they all came over and helped at the end. I told you about going in to see Norman Chandler who urged me to go along with the Metropolitan Water District and I wouldn't do it. But the Times finally came along and endorsed the project too. They were influenced by the Metropolitan Water District greatly.

Chall: Chandler was supposed to own a rather large bit of land.

Brown: Oh, yes, he had that Tejon ranch and the project benefited them tremendously. This water project was a godsend to the big landowners of the state of California. It really increased the value of their property tremendously and people should realize that. But also the ordinary citizen was helped by it too. I was willing to go for enrichment of these rich people here because it was the lesser of evils. I wish there was some way we could have an unjust enrichment tax like we are with the oil companies now.

Chall: Do you recall who signed the contract with you from the Metropolitan Water District? Was it Jenson or Skinner?

Brown: I think we both did. [interruption: telephone rings] No, it was Skinner.

Chall: In one letter that I have here, you have said, "When I was governor we earmarked the tidelands funds for education. The Reagan administration, under pressure from the water interests of Southern California, repealed this statute and gave the funds to the water project. This was absolutely wrong and resulted in diminished education for the people of this state. It is a long story and I don't think you have it all."* Now about earmarking of the tidelands funds for education-- Initially a portion of the tidelands funds had been earmarked for the California Water Project, then later you cut back some of the funds and used them for education.

Brown: Not all of it.

Chall: It was assumed that about \$20 million a year would go toward the water project.

Brown: Yes, I think that was it.

Chall: However, it got down to the point where I think you had set it for \$11 or \$12 million a year, in order to give funds to schools.

Brown: We had to compromise. We had to use some of it for the lakes.

Chall: Oh, well, no. This was even after. Yes, I know what you mean. I was just wondering how you feel now looking back on it, putting the blame on Reagan for using tidelands money for water.

Brown: Well, it was another subsidy to the big farmers. It gave them more money. But we had to keep that bond issue to as little as we possibly could and we were afraid of a \$2 billion bond issue, whereas we felt we could put a \$1 billion 750 million project over. So therefore we had to get other money. Of course, I won the lawsuit, when I was attorney general, for the state of California. That money all went to the city of Long Beach. I also lobbied for the return of the tidelands to the state of California. I used to argue, take one natural resource, oil, and put it into water. Could I keep this letter? You don't need this, do you?

Chall: No, I don't. You can have one. I have another. And here are copies of letters from the Hotchkis papers regarding bills AB 15 and SB 11, which would have used tidelands oil funds to complete the California

*Edmund G. (Pat) Brown. Letter to the editor, San Francisco Bay Guardian, September 30, 1969.

Chall: Water Project to Ventura County. These were being considered in January, 1968. Your letter may have been referring to this legislation.

Brown: Okay, thank you.

Chall: Thank you for your time. I think we are finished with our interviews on the California Water Project.

Transcriber: Michelle Stafford
Final Typist: Keiko Sugimoto

TAPE GUIDE -- Edmund G. Brown, Sr. (Pat)

Interview 16: April 24, 1979 *	1
tape 1, side A	1
tape 1, side B	10
tape 2, side A	20
tape 2, side B	30
tape 3, side A	38
insert from end of tape 2, side A, beginning of tape 2, side B	45
Interview 17: May 8, 1979	49
tape 4, side A	49
tape 4, side B	58

*Interview 16, which will be one chapter in Edmund G. Brown, Sr.'s full-length memoir, has been included in this volume covering California water issues from 1950 to 1966.

INDEX -- Edmund G. Brown, Sr. (Pat)

acreage limitation, 2-3, 6-8, 32, 42-43, 49-52, 60
 Allen, Bruce, 18, 28-29, 47
 Aspinall, Wayne, 57-58
 Auburn Dam, 53, 56

Banks, Harvey, 9, 16, 26-27, 37, 46
 Bennett, William, 48
 boards and commissions, uses of, 9
 Bottorf, Alan, 38
 Brody, Ralph, 10, 14-16, 26-27, 46, 51
 Brown, Edmund G., Jr. (Jerry), 9, 31, 39, 41, 52
 Burns, Hugh, 15-16, 22
 Burns-Porter Act, 15-32

California Democratic Council (CDC), 5
 California State
 California Water Commission, 8-10
 Coastal Zone Conservation Commission, 9
 Department of Fish and Game, 23-24
 Department of Water Resources
 organization of, 1956, 1-8
 California [State] Water Project, 1950-1967, 11-63
 Carr, James, 58
 Central Arizona Project, 52-54, 56
 Chandler, Norman, 37, 61
 Columbia River, 56
 Cooper, Erwin, 17
 Corker, Charles, 55

Davis, Pauline, 8, 24
 Davis-Grunsky Act, 24, 44
 Day, Edward, 33
 death penalty, 41-42
 Democratic party (California), 60
 desalination, 12, 40
 Dowd, Munson (Mike), 54

Edmonston, A.D., 15, 25
 Eel River, 12, 54
 election campaigns, state
 1958, gubernatorial, 13-15
 1960, Water Bond Issue, Proposition 1, 32-34, 39

Ely, Northcutt (Mike), 54
 Engle, Clair, 58

Feather River Dam. See Oroville
 Fisher, Hugo, 16, 46, 53-54, 56

Gibson, Phil, 29
 Goldberg, B. Abbott, 3, 10-12, 14, 16, 27, 46-48, 54-55, 58-59
 Grody, Harvey P., 15, 21

Hayden, Carl, 52-53
 Hotchkis, Preston, 32-33

Irrigation Districts Association, 59
Ivanhoe Irrigation District v. All Parties, 2-4, 6, 11, 55

Jensen, Joseph, 38, 53, 60
 Johnson, Harold (Bizz), 54-55, 57

Kennedy, John F., 33-34
 Kennedy, Harold W., 61
 Kern County Water Agency, 30-31
 Knight, Goodwin, 4, 11, 14
 Knox, John, 52
 Kuchel, Thomas, 54-55

League of Women Voters, 33
 Levit, Bert, 11
 Lindsay, Francis C., 1, 6
 Los Angeles Water and Power, 60-61
 Lynch, Thomas, 55

McAteer, Eugene, 21-22
 McConnell, F. Britton, 22
 Magnin, Cyril, 33
 media
 newspapers, 34, 37, 61
 Mellon, Thomas, 33
 Metropolitan Water District, 11, 20-21, 30, 32, 36-39, 53-54, 60-61
 Miller, George, Jr., 20, 26, 30, 41
 Mosk, Stanley, 47-48, 54-55

Nader, Ralph, 17
 Nixon, Richard, 41
 nuclear power, 49-41

O'Neill, Jack, 14, 23, 25
 Oroville Dam, 19, 52

Pacific Southwest Water Plan, 52-57
 Peripheral Canal, 12, 23, 31, 59-60
 Porter, Carley, 15, 25, 38, 44
 Poulson, Norris, 16, 33
 power electric, 40-43

Rank v. Krug, 47-48, 55
 Reagan, Ronald, 12, 19, 62-63
 Republicans and the California Water Project, 4, 11, 14-15
 Rickover, Hyman, 40

San Luis Reservoir Joint Service Contract, 3, 23, 49-52
 Shaw, Arvin, 3
 Sierra Club, 54
 Sisk, Bernard (Bernie), 54-55
 Skinner, Robert, 37, 61-62
 Sprague, Irvine, 57

Taylor, Paul, 7-8
 Thomas, Vincent, 14
 tidelands oil funds, 16-17, 24, 26, 28-29, 43-44, 62-63
 Tillman, Gilmore, 61

Udall, Stewart, 49, 51,,58-59

Warne, William E., 10, 23, 27-28, 30, 38, 45-46, 51-54
 Warren, Earl, 2
 water conservation, 25-26, 59
 Weinberger, Caspar (Cap), 1-6
 Western States Water Council, 56
 Westphal, T., 11
 Wild Rivers Act, 12, 54
 women in politics, 33

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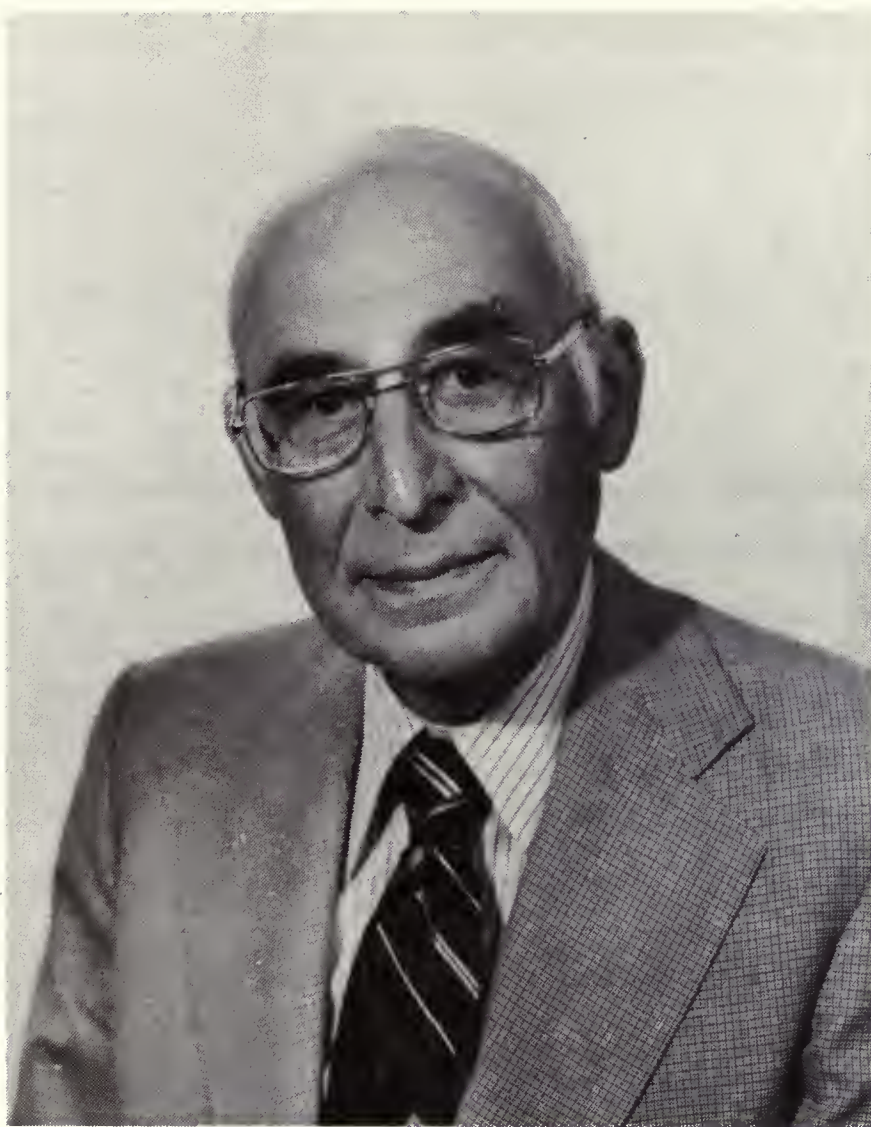
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Goodwin Knight/Edmund Brown, Sr., Era

B. Abbott Goldberg

WATER POLICY ISSUES IN THE COURTS, 1950-1966

An Interview Conducted by
Malca Chall in 1979



B. ABBOTT GOLDBERG

*Photo by Sirlin Studios
Sacramento, Calif.*

TABLE OF CONTENTS -- B. Abbott Goldberg

INTERVIEW HISTORY	i
BRIEF BIOGRAPHY	iii
I DEPUTY ATTORNEY GENERAL, 1948-1960	1
Joining the Staff of the State Attorney General, 1948:	
Some Personal Background	1
Assigned to the Ivanhoe Case, 1950	2
The San Luis Reservoir Joint Service Contract, 1961	20
Rank against Krug	23
Arizona against California: An Appraisal of the "Long Suit"	30
II DEPUTY DIRECTOR, DEPARTMENT OF WATER RESOURCES, AND COUNSEL TO GOVERNOR EDMUND G. BROWN, SR., 1961-1966	33
Cases Relating to the Contract and the Sale of Bonds for the State Water Project	36
Replacing the Tracks of the Feather River Railroad	45
Some Observations on Administrators and Administration Relating to State Water Issues	48
III IDEALS AND COMMITMENTS IN BRINGING WATER TO LAND	51
IV RANK AGAINST KRUG: SOME ADDITIONAL BACKGROUND	55
TAPE GUIDE	60
INDEX	61

INTERVIEW HISTORY

Of Abbott Goldberg and water policy, Governor Edmund G. (Pat) Brown has said, "He influenced me greatly in my philosophy of development." When B. Abbott Goldberg joined the staff of the state attorney general's office in 1948, he did not anticipate that within a decade he would have been assigned by Attorney General Pat Brown two of the most hotly contested and critical water cases to come before the state and federal courts. Nor could he foresee that by 1961 he would be deputy director of the Department of Water Resources and counsel to Governor Brown concerned primarily with cases in which the development of the California Water Project was at stake.

It was Abbott Goldberg who handled Ivanhoe Irrigation District v McCracken and Rank v Krug, both landmark cases which were taken to the United States Supreme Court, both to be decided in favor of the state's position. These defined the authority of the federal government in California's Central Valley Project.

After passage of the California Water Bond measure, Proposition I, in 1960, he had responsibility for three cases which went to the state supreme court: Metropolitan Water District v Marquardt, Warne v Harkness, and California Water Resources Development Finance Committee v Betts. Favorable court decisions in these crucial cases permitted the Department of Water Resources to carry forward its plans to construct and finance the State Water Project.

Almost simultaneously, Abbott Goldberg was preparing the brief arguing in favor of joint state-federal construction and financing of the San Luis Reservoir--a key element in the water project, and one which involved a decision on the application of the 160-acre limit to the state project itself. Goldberg's brief against such application was an important legal argument among the many opinions and pressures put before Secretary of Interior Stewart Udall during 1961. Once again the state's position was accepted.

These are just a few of the cases--water and others--which Abbott Goldberg was assigned during his eighteen-year tenure with state government prior to his being appointed to the Sacramento Municipal Court and then to the superior court by Governor Brown in 1966.

When he was asked to participate in this oral history project to discuss specifically issues related to water, Judge Goldberg agreed but only on condition that he have time to review his briefs and other relevant papers; he was afraid that he could not remember the details of cases which went back nearly thirty years. Fortunately for this project and for students of water history, Judge Goldberg had retained his papers in his home and he has agreed to deposit them in the Water Resources Archives on the campus of the University of California at Berkeley.

Judge Goldberg spends much time in his office on the campus of McGeorge School of Law in Sacramento, reading and writing articles for law journals, and it was here that we met during the morning of May 10, 1979. We discussed the outline of questions which I had prepared, then had lunch in the student cafeteria, during which he regaled me with humorous anecdotes on the problems of indexing legal cases. After lunch we returned to the office and in three and one-half hours recorded the interview.

Alternately smoking and cleaning his pipe he thoughtfully and articulately answered questions, offering background on the personalities and the politics behind the often difficult legal questions involved in the cases under study. He understands that it is the actions and interactions of people which make history and that the high drama and human interest behind court cases are usually muted in the writing of the decisions. Thus, despite its complexity and the seriousness with which the issue of water is attended on all sides, one can, under Goldberg's guidance, find elements of humor to brighten the paths through the labyrinth.

When he received his lightly edited transcript, Judge Goldberg checked it carefully for accuracy, adding some details. He has claimed that he does not consider himself an authority on water law as such, that his interest has been in the functioning of local government and the relationship between local government and the state on the one hand, and the United States on the other. This brief interview, in combination with the Goldberg papers in the archives and other oral history interviews about water, will enable the researcher to understand better the many legal and political facets of California's long-standing and seemingly never-ending controversies about water.

Malca Chall
Interviewer-Editor

30 October 1980
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

Governmental History Documentation Project Interviewee

Your full name Benjamin (B.) Abbott Goldberg

Date of birth December 22, 1916

Father's full name David A. Goldberg

Father's place of birth Libau (now Liepaja) Latvia

Mother's full name Bessie Rosenberg

Mother's place of birth Smargon, Lithuania

Where did you grow up? Fitchburg, Massachusetts

Education Public schools, Fitchburg, Mass.; B.A. Univ. of Michigan, 1937; LL.B., Harvard Law School, 1940.

Early employment None of consequence. Admitted to Massachusetts

Bar December 1940; U.S. Army January 1941 to April 1944, 1st Lt., Ordnance Dept.; retired for physical disability.

Positions held in state government 1944-48, attorney Judicial Council; 1948-61, deputy, later assistant, Attorney General; 1961-66 Deputy, later Chief Deputy Director, State Department of Water Resources; 1966 judge, Municipal Ct., Sacramento; 1966-78, judge Superior Court, Sacramento. Lecturer, Hastings Law School 1948-52.

Employment after leaving state government Distinguished Scholar in Residence, McGeorge School of Law, University of the Pacific, Sacramento.

I DEPUTY ATTORNEY GENERAL, 1948-1960

[Date of Interview: May 10, 1979]##

Joining the Staff of the State Attorney General, 1948:
Some Personal Background

Chall: To begin with, Judge Goldberg, I'd like to know briefly the route by which you joined the attorney general's office and then became, eventually, their expert on water law.

Goldberg: I originally came from Massachusetts. I was returned to Letterman Hospital [San Francisco] as a patient in the summer of 1942 and was confined at Letterman for about a year and a half, or perhaps more.

Chall: Would you explain in more detail, please, about when you went into the army and the nature of your illness?

Goldberg: I was graduated from Harvard Law School in 1940, admitted to the Massachusetts bar in December 1940, and ordered to active duty with the army in January 1941. Shortly after Pearl Harbor I was sent to Hawaii where, in April 1942, I became extremely ill with what is variously known as Crohn's disease or regional ileitis or inflammatory bowel disease. I was transferred to Letterman Hospital in San Francisco, underwent two surgeries, April and October 1943, and discharged in April 1944.

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 60.

Goldberg: By that time, I found that San Francisco seemed to be a nicer place to live than going back to Fitchburg, Massachusetts, where I came from. Or even to Boston. Also, I was not really very well.

I started looking around to see what the opportunities were in San Francisco and I was referred to the chief justice of the California Supreme Court, then Philip S. Gibson. As chairman of the Judicial Council, Judge Gibson was in charge of the survey of administrative agencies, the administrative law, a study that the council was then conducting for the legislature.

He took me on as a research assistant on that project. Of course, I could not practice law in California because I was not a member of the California bar. I became a member of the bar by studying while I was working for the chief justice.

Chall: Where was that, in San Francisco?

Goldberg: In San Francisco.

Then after I passed the bar, I was still having some health problems, and I continued with the Judicial Council and the chief justice, I think until 1948. By that time I had gotten acquainted somewhat with California state government and with the opportunities available in California state government, and it seemed to me that a good job for me was going into the attorney general's office because the work seemed to be more interesting than what one would encounter in the ordinary practice of law. Also, and this was very important to me, I would have the benefit of the sick leave and leave of absence provisions of the state Civil Service Act.

Bear in mind, in those days, health plans and retirement plans in private practice were virtually unknown. So I took the ordinary state civil service exam for the attorney general's office, passed it, and was appointed as a deputy attorney general in San Francisco, I think in 1948. I was there doing whatever work a junior deputy was required to do until Governor [Edmund G., Sr.] Brown, then district attorney of San Francisco, was elected attorney general [1950].

Assigned to the Ivanhoe Case, 1950

Goldberg: One of the problems he had encountered during his campaign for attorney general had been the problems of the Central Valley Project, particularly the validation of various contracts

Goldberg: containing the acreage limitation, and the acreage limitation was then as lively a controversy as it is now, perhaps more so. As attorney general elect, I believe, he wanted someone to make a legal investigation of the problems connected with the acreage limitation and the matter was coming to a focus in a case known as the Ivanhoe case. The Ivanhoe case took the form of a so-called validation proceeding, a procedure unknown to the common law, and characterized under the law of California as a special proceeding.

He inquired of the various senior men in the office as to who would be an appropriate person to put to work on a special proceeding, and notice, as lawyers, nobody really thought much about the substance of the case; we thought about the form, the special proceeding.

The answer to that was rather clear because I had written an article for the California Law Review on the use of various extraordinary writs which are in California law, special proceedings, and was therefore the local authority [chuckles] on special proceedings. The fact that I didn't know a riparian right from a pump handle didn't make much difference. So I was assigned to study the problems connected with the Ivanhoe case.

The office under the former incumbent, Fred Howser, a Republican, had taken the position that the acreage limitation could not be applied in California because the California law giving authority to the irrigation districts to so comply was unconstitutional.

I wrote an opinion concerning Friant Dam and releases of water from Friant Dam to protect fish, in which I came to the conclusion that the prior opinion which had been written by Mr. Arvin Shaw, now deceased, was wrong and that the state law that permitted cooperation between the irrigation districts and the United States was, in fact, constitutional.

I was thereupon assigned to the Ivanhoe case and had the assistance of two lawyers from the United States Bureau of Reclamation--I can't remember if it's called district or what office--Regional office in Sacramento, Adolph Moskovitz and Stan Kronick. I recall rather vividly after making a first appraisal of Ivanhoe, I said something to then-Attorney General Brown, "Do you realize the political ramifications of this"

He replied to me, and this I recall very vividly, "You just be right on the law and the politics will take care of 'themselves.'" So I felt that I had a free hand to be right on law, if one ever can be, and I proceeded to amend the pleadings in Ivanhoe, so that the state appeared in support of the Ivanhoe Irrigation District rather than in opposition to it.

Goldberg: This change in position was extremely offensive to the Irrigation Districts Association and to all the large landowners, who both were opposing the acreage limitation. These included the Kern County Land Co., which, if I recall correctly, was then represented by Mr. Burnham Enerson; the Salyer interests, represented by--I can see his face right up clearly in front of me--Walter Gleason; the Di Giorgio interests, represented by Alvin Rockwell. I suppose those were the principal ones. There were others, but I cannot now recall them.

Chall: Were you telling me another time today about Mr. [Harry] Horton? Would he represent the--

Goldberg: Oh, Mr. Horton represented McCracken.

Chall: I see. Okay.

Goldberg: Mr. Horton was counsel for the Imperial Irrigation District. The Imperial Irrigation District had a sort of two-fold interest in Ivanhoe. One in connection with the acreage limitation. The Imperial Irrigation District had been exempted from the acreage limitation on the basis of a letter written, I think, by Ray Lyman Wilbur as one of his last acts as secretary of the interior.

The letter is rather well known and the rumor, which I emphasize is only a rumor, because I have no way of authenticating it, but the rumor was that it was actually written by Northcutt Ely, who had been an assistant in the Department of the Interior to Secretary Wilbur. But be that as it may, there was no more substantial basis for exempting Imperial from the acreage limitation than that letter.

Also, the Imperial Irrigation District received its water from the Colorado River, and there was the continuing, festering controversy between Arizona and California as to the entitlement from the Colorado River. It always seemed to me that the Imperial Irrigation District and the Colorado River interests generally, had an underlying strategy of protecting the Colorado River as a source by diminishing the rights of the United States in water development, wherever they could. The attack on the acreage limitation was part of that overall strategy.

Chall: Could I interrupt you a moment and ask you about Mr. Edmonston? How did the then-agencies--the water division and the engineers--take to this change in policy? Did you get any feedback from that source, that group?

Goldberg: Oh, yes. We got a lot of feedback from the--then, I think it was the Division of Water Resources, within the Department of Public Works, or the Office of the State Engineer within the Division of Public Works.

Goldberg: Mr. Edmonston and his then-chief counsel, Henry Holsinger, and their subordinates, were very much provoked by the change in position by the attorney general. Their interests were somewhat different, of course, from the interests of the Imperial Irrigation District. They were interested in protecting Imperial. They had really accepted, although I never heard them articulate it, but they had accepted the Southern California strategy on the Colorado River fight. In addition, you had a personality problem operating there.

These men--that is, Edmonston, Jerry Jones, Bill Berry--these are engineers--I'm sorry, I can't recall the names of the others.

Chall: That's all right; they're in files.

Goldberg: But these men had done what I can truthfully describe as a superb work of engineering in designing the Central Valley Project. This can be traced, I think, through their old bulletins--24, 25, and 26, or 25, 26, and 27. I don't recall the numbers. But you will find in there the real design of the Central Valley Project.

The design had been completed, let's say, in the late twenties. The problem in the thirties with the Depression was how to finance this work, get it under way. They had originally hoped that it would be financed by the United States and constructed by the state.

As it actually developed, and you'll have to speak to perhaps somebody like Leland Graham or perhaps Mr. Marion Clawson, to get the account of this, but as it actually developed--the story as I got it from the state engineers--is that the United States "stole" their project. Because, when the United States came in, instead of constructing the project with the state as an instrument, or WPA, or something of that sort, the United States seized upon it as a project for the Bureau of Reclamation then under the directorship of the fabulous character, Mike Straus. If you ever wanted to make Bob Edmonston foam at the mouth, all you had to do was say "Mike Straus." [chuckles]

But the project was constructed substantially, not in literal leaps and bounds as designed by the state, but in substantial conformity with the way the state had designed it. Here was their beautiful project, and they really had nothing to do with it except kind of monitor the thing, and the monitoring through the agency that had been set up to build the Central Valley Project--that was the Water Project Authority. Not only did it not have very much to do, but what little it did do was in the nature of caviling, and I use the word in its literal meaning of finding trivial and irritating objections to what the United States was doing.

Goldberg: I recall well one meeting of the Water Project Authority. By the way, their meetings were transcribed and I suppose are available in the archives somewhere. But I recall one meeting at which then-Attorney General [Earl] Warren said something to this effect. By the way, the attorney general was an ex officio member of the Water Project Authority. He said that the Water Project Authority should not be engaged in this rather captious criticism of what the United States was doing; that, after all, the one who paid the piper had the right to call the tune. I recall that, I think, because I used it in a brief somewhere. Or if I didn't use it, I certainly should have.

So when the attorney general changed position in the Ivanhoe case, the Division of Water Rights or the state engineer—I don't recall just what title was used--

Chall: I think it was Water Resources.

Goldberg: Well, whatever it may be--appeared in opposition to the attorney general. Henry Holsinger was then an elderly gentleman of the old school. The judge, Benjamin Jones, from Lake County, was also elderly. I hesitate [pauses and laughs] in view of my relationship with him, to call him a gentleman. I don't know whether he's still alive, but I used to think of him as a flatulent old oaf.

The judge, who accepted everything Horton said, but didn't quite have the affinity for Horton that one might expect under the circumstances--the judge lapped up every word that Henry Holsinger had to say. Henry made the argument that if we were correct, we would have the horrendous consequence of the state being in constant thralldom to the United States by an infinite succession of forty-year contracts for the delivery of water, and that every time that a contract came up for renewal, there could be different conditions on the contract, or the United States might refuse to deliver water at all within the Central Valley.

I remember I argued in opposition to that: What were they going to do, roll up the Friant-Kern Canal and move it someplace else? But that rather homely argument cut no ice with Judge Jones, and we lost in the trial court.

The appeal was to the state supreme court. In an opinion that I think was really contrived, because it is at all odds with California water law, the state supreme court by a four to three vote affirmed the trial court.*

*Ivanhoe Irrigation District v. McCracken, 357 U.S. 1958.

Goldberg: The peculiarity of the opinion was that it seemed to be holding a federal law unconstitutional under the state constitution. This point was peculiar enough that instead of going to the U.S. Supreme Court by the ordinary vehicle, certiorari, we took an appeal to the U.S. Supreme Court.

The United States Supreme Court eventually refused to characterize the case in the way we had characterized it, and treated the appeal as a petition for certiorari, as is permissible under its rules, and proceeded to reverse the California Supreme Court and remand the case for consideration of the remaining issues under state law.

But this business of taking the appeal to the U.S. Supreme Court rather than going by certiorari raised jurisdictional problems, and we received a letter from the clerk of the U.S. Supreme Court admonishing us to argue the question of jurisdiction first. I don't recall what all the jurisdictional issues were, but one was whether we had pursued the proper remedy, the appeal or certiorari, which, in practical effect, made no great difference in the argument because it provided a convenient means of explaining the California Supreme Court opinion to the United States Supreme Court.

A more troublesome problem was whether we really had a justiciable issue. As I told you, the Ivanhoe case was a so-called validation case. This was a proceeding provided for in the state statutes for obtaining a judicial declaration as to validity of the contract. Now years ago, there had been a case, I think Modesto Irrigation District against Tregea--this may have been as long ago as the nineties; I don't really recall--in which a similar validation proceeding had been dismissed by the United States Supreme Court because the United States Supreme Court then thought that no justiciable issue was presented; that it was not a real case of controversy, it was simply a means of collecting evidence as to the validity of the contract. This was a very troublesome point.

I can't recall--it must be in the briefs--I can't recall how we weasled out of that one. But that was a major problem. It was so major that the United States Supreme Court, when it decided that we were correct and that the acreage limitation was indeed constitutional, solved the problem by simply not discussing it, so that if one were to read the opinion in the Ivanhoe case today, one would never know that this problem was present.

Chall: So they made the decision on some other basis then?

Goldberg: They simply considered the merits, if I recall the opinion correctly. I'd have to review the opinion, but my recollection, without having looked at it for many years, is that this problem of federal jurisdiction...Now this isn't merely Supreme Court jurisdiction; this is federal jurisdiction. The federal courts have jurisdiction only over actual cases in controversy. This problem of federal jurisdiction was never mentioned.

A sidelight on that. I take it in oral history, we can be a little anecdotal.

Chall: Yes.

Goldberg: The Ivanhoe case was argued in April. At that time the attorney general's office was in the process of conducting a rather active recruiting program. Since I had gone to Harvard and I was back at Washington, the suggestion was made: why didn't I go up to Cambridge and see if I could find a few likely recruits for the attorney general's office in California.

So I went up to Harvard and while there, I paid a courtesy visit on Henry Hart.

[brief interruption]

Chall: You were recruiting at Harvard.

Goldberg: Yes. Henry Hart was a professor at Harvard. I'd had him for one semester, but I didn't know him. But he was co-author with [Herbert] Wechsler of Columbia of a book entitled The Federal Courts and the Federal System, a book which was indispensable to us when we were working on the Ivanhoe case. I frankly would have been lost without having that book available.

So I thought I should pay him at least a courtesy visit. I went in to see him and I told him about the Ivanhoe case. I said, "I suppose you never heard of such a thing as the acreage limitation." He said, oh yes, he had indeed, that he had been born and brought up in Spokane, Washington, and he was quite familiar with the acreage limitation and the problems of state relationships with the United States in these reclamation projects, and did I have an extra set of the briefs that I could let him have.

I said yes, and I presently sent him a set of the briefs, in return for which he sent me his final examination in federal jurisdiction. I recall there were four questions. There was

Goldberg: the easy first question, then a little harder second one, finally we get down to the fourth, the real toughie. There, lo and behold, was our Ivanhoe case with its assorted problems of federal jurisdiction.

Thereafter, the opinion in Ivanhoe came out. I wrote Professor Hart a note. I said, "Does the Supreme Court get an A?" He never chose to reply. [laughter]

Well, the Ivanhoe case was remanded back to the state court.

Chall: Was that the state supreme court?

Goldberg: The state supreme court, yes. It was again reargued.

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Goldberg: It had been settled as to the constitutionality of the acreage limitation by the opinion of the U.S. Supreme Court, and in the second Ivanhoe opinion in the state supreme court, of course, we won.

Chall: What if you hadn't? I realized it went back and I never could understand why--I'm sure a legal scholar would be able to--but could it have been that the second time around, it still could have been decided the other way by the state supreme court? Then where would you have been?

Goldberg: Of course, the state supreme court could have done such a thing as holding the entire validation proceeding itself unconstitutional. The validation proceeding in a sense is a little suspect. I don't know what the act now provides, but at that time it provided only for service of notice of proceeding by publication. It did not require any effort to personally serve any people who might be interested.

There are cases in the U.S. Supreme Court that could be used to invalidate such a proceeding on the ground, not that it doesn't provide the best notice possible, but that it doesn't even provide a reasonably likely notice to parties interested. It could have gone off on something of that sort, but it didn't, and the contracts were affirmed.

Chall: Could I get some anecdotal information from you about the Supreme Court--arguing the case before the Supreme Court? Was this the first time you had done so?

Goldberg: Yes. That was the first case I had before the U.S. Supreme Court and I've got [pausing]--well, let's see--three anecdotes in mind. One, at the end of the argument. Anthony Lewis, who, I guess, at that time, was either working on Gideon's Trumpet or had just completed it, was a reporter for the New York Times, assigned to cover the Supreme Court beat.

After the argument he came up to me and he said, "Mr. Goldberg, do you realize you've scored an all-time first before this court?" I said, "No." He said, "Yes. You argued the question of federal jurisdiction for almost half an hour, and Justice Frankfurter asked you only one question and when he did, he was almost deferential."

Chall: [chuckling] Is that so?

Goldberg: That's one. Another one, and this is one of my really happy memories. I was perhaps three-quarters of the way through the argument--in any event, approaching the close of the argument--and Justice Harlan interrupted me. "Now," he said, "as I understand your argument, your points are one, two, three, four"--just as if he had been looking over my shoulder at the outline I had in front of me.

I said, "Yes, that's correct. Now if I haven't been clear--" "Oh," he said, "if those are your points, you have been perfectly clear." I cherish that thought.

The other anecdote is this. There were actually three cases--four cases, excuse me. There was a similar validation case from the Madera Irrigation District, which went up with Ivanhoe. There was a case, Albonico against the Madera Irrigation District, which, if I recall correctly, involved some challenge to the assessment procedure, under the contract with the Madera Irrigation District. And there was another validation case from Santa Barbara, involving what I think is the Catchuma Project.

The attorney who had originally handled the case for Santa Barbara was a young man named Parma, who unfortunately was killed in an automobile accident while the case was pending. He was succeeded by his senior partner, Francis Price. Francis Price was one of the eminent figures at the California bar. It later turned out that Francis Price was a personal friend of Chief Justice Earl Warren. He was such a good friend that Chief Justice Warren sent around the Supreme Court's car to take Mr. Price back, at least back to the airport. I remember he asked us whether we wanted to ride and we didn't. But there was a personal relationship there, although Mr. Price did not participate in the argument. He left the argument entirely up to me.

Goldberg: What I recall about Mr. Price is we were in the final stages of correcting the proofs--we, being Adolph Moskowitz and I. We were sitting in my little office in the attorney general's offices in San Francisco, late one evening, going over these galley sheets.

Now, Adolph is an expert grammarian and he was very careful about sentence structure, capitalization, and the like. It was getting along towards midnight and I recall Mr. Price saying, "Well, boys, if the outcome of the case depended on the quality of the punctuation, we'd certainly be home free." [laughter]

Chall: Earl Warren, when we were interviewing him, was sure that he had disqualified himself from this case. But as far as I can tell, he did not. There was somebody--it was an eight to one decision--

Goldberg: Eight to nothing.

Chall: It was an eight to zero decision, of course, I thought it was Mr. Frankfurter who disqualified himself.

Goldberg: That is correct. Frankfurter disqualified himself for reasons never revealed to me. Preble Stolz, now a professor at Boalt Hall, was then working as a law clerk, I think to Mr. Justice Burton.

When I first met Preble, he told--this must have been in '58 or '59, or perhaps '60, but it was about that time--maybe '58. When I first met Preble, he told me he knew why Frankfurter had disqualified himself, but, of course, he could never reveal it to me because it was one of the secrets of court employment.

Only a few months ago I said to Preble, "Well, they're all gone now. The Ivanhoe case is a dead letter. Will you finally tell me why Frankfurter disqualified himself from the Ivanhoe case?" To which Preble replied, "I forget." [laughter]

Chall: We'll just have to find out some other way.

But Frankfurter did listen. Even if they disqualify themselves, do the judges sit in? Because you say that Frankfurter did ask you a question.

Goldberg: Oh yes, he asked me a question and he also made a remark to Mr. Horton that I would have found devastating, but it didn't bother Mr. Horton any. Horton was the principal oral advocate for the opponents of the limitation. They split up their argument three

Goldberg: ways: part to Horton, part to Alvin Rockwell, and part to Denslow Green from Madera, I suppose, because Dennie Green participated both in the Madera validation case and the Albonico case.

Anyway, they had that three partite argument and Horton led off. Of course they had received the same letter that we had-- the counsel were admonished to argue the question of jurisdiction first. Horton started out with the, as I recall it, rather diffuse and emotional harrangue on the beauties of the Central Valley Project and the need for water, et cetera, and this continued for some time. He said, "Now I get to the question of jurisdiction."

Frankfurter said, "I'm glad, because we've been waiting for the past half-hour."

Now, there's a transcript of the argument somewhere. I thought I had it. Perhaps it's in with the actual case file from the attorney general's office, which I think is in the state archives, but there is a transcript of that argument available.

Chall: Let me ask you another question. Did it seem surprising to you that Earl Warren would sit on that case since he had been attorney general--excuse me, he was governor at that time that Howser planned to set the case one way, before Governor Brown came in and changed the argument. Would that necessarily have, do you think, put him in conflict of interest here? He seemed not to think so, of course--at the time, he certainly thought not, but when I asked him about it, in 1972, he was sure that he had disqualified himself. Were you surprised when he was still on the bench then, participating?

Goldberg: I tell you, I don't think I ever thought about it. By that time, Brown against the Board of Education had been decided. It was well known, the direction of Warren's thinking. Really, the constitutional argument in *Ivanhoe* was quite simple. There is nothing in the Constitution that says that you have to subsidize a person more simply because he happens to own more in the first place.

There is nothing in the Constitution that requires you to define as property within the due process clause a hope of a future benefit as contingent or uncertain as getting water down to Bakersfield from the San Joaquin Valley some 150 miles to the north. So that really the constitutional attack was a gross exaggeration.

Goldberg: I would have to refer to the briefs, but I think that I may have gone as far as characterizing the California Supreme Court opinion as an attempt to evade the federal Constitution or to construct a right simply to have a right to be deprived of . . . without due process.

I think I have the Ivanhoe brief here and I can refer...I think what I may have been thinking of was in our petition for rehearing to the California Supreme Court after the first state Ivanhoe decision where we wrote [looking into Ivanhoe brief]: "There were apparently only two ways in which the the constitutionality of the 160-acre water limitation can be attacked. One is to hold that it deprives a person of property without due process of law; the other is to hold that it denies equal protection.

"To apply due process, it is necessary to find a property right to be deprived of. So one way of explaining the trust is that it is a device which was called into being in order to have a property right of which to be deprived without due process," et cetera.

I think that is the thought that I had in mind a moment ago. And that's from the Petition for Rehearing, which in my files is dated February 7, 1956.

Here we are twenty-three years and a generation later.

Chall: And it hasn't been solved yet. It's still in the courts.

With respect to Ivanhoe, I came across, in one of our notes, some information about Associate Justice John W. Shenk. He was a member of the California Supreme Court, had been since 1924, died August 3, 1959 at the age of eighty-four. Western Water News said that he wrote the 1957 decisions in the contract cases of Ivanhoe and the Madera Irrigation districts. Do you recall Judge Shenk?

Goldberg: Yes, I recall Judge Shenk very well.

Chall: Elderly man at the time you were doing that hearing?

Goldberg: Yes, he was elderly when I first met him in 1944. He was a very pleasant gentleman. I would occasionally meet him at Foster's for lunch and our personal relationship was always most amiable. But I think that he was committed to a particular point of view in the Ivanhoe case and he was following that point of view out.

Goldberg: Now, bear in mind, Judge Shenk was a Republican. You can trace his actions in the administrative agency cases where he was consistently an opponent of administrative agencies in the sense that he wanted an independent judgement of the courts on the evidence in cases involving review of administrative activities, a problem which remains somewhat controversial to this day. In my opinion, and, of course, this is only an opinion based on my observation of him, he was still carrying the fight against the New Deal, which went on in the California courts in late 1930s and early 1940s, and the Central Valley Project was viewed as a New Deal operation.

This may tie back, in part at least, to the animus against the United States shown by the state engineer's office. All those old gentlemen were old Republican appointees, too.

So you get kind of a political conflict there.

[brief break]

Chall: Do you want to continue?

Goldberg: Well, we've only talked for an hour since lunch. I do have a letter that I should get off later, but it won't take me long.

Chall: Since this was your first contact before the United States Supreme Court, I would like to get some of your personal feelings. How did you go about preparing yourself emotionally, or whatever one would call it, to argue before the Supreme Court? Isn't that considered an important step up for an attorney? What all was going on in your mind at the time?

Goldberg: Of course, I considered it important. I was thrilled to have the opportunity. I had a good deal of appellate argument experience already behind me. I don't know how many cases I had before Ivanhoe, before the California Supreme Court, and I don't know how many cases I had thereafter. In 1958, I was already forty-one, and I was certainly no ingenue, as far as appellate argument was concerned.

The actual mode of preparation was that Adolph and I went over the case. I don't recall how we did it now, but Adolph Moskovitz was a lawyer of great ability. I was extremely fortunate to have had a man like him to work with. We canvassed the case, and with Mr. Price as well, up one side and down the other. Then I had become acquainted with some of the men from the solicitor general's office in Washington. The solicitor general was going to appear

Goldberg: amicus curiae in our behalf in Ivanhoe, and I spent a Sunday afternoon with a man named Davis--I'm sorry I don't remember his first name. He later became the clerk of the United States Supreme Court. He, of course, had had a number of cases before the Court and was experienced in its procedures and just sort of briefed me.

I looked for and I have not been able to find, but what I recall doing, was making a tight outline of various points that I wanted to be sure to cover. I think what I did was simply tick off those points in the outline. I remember well because I'd used the procedure before and I used it thereafter.

I simply took a three-ring binder and put my outline in that and flipped the pages as necessary. But I had pretty well in mind what I wanted to say and I knew the case thoroughly enough so I doubted there was any question that could be put to me that I couldn't field, and so it turned out.

Now, whether it was before the Ivanhoe case or not, I don't recall, but we got to Washington a little early and I went over and watched the session of the Court just so that I would have the feel of the courthouse. I remember hearing an argument by somebody from the state of Washington on--I can't recall what the case was about--and feeling sorry for the poor man because he was so obviously unprepared to meet the Court on its own ground. But we were prepared to meet the Court on its own ground.

We had this federal jurisdiction business which, of course, is commonplace to the Supreme Court, but it was a little bit out of the ordinary, at least in the detail in which we had to explore it, to the average lawyer from the country like San Francisco. But we had made a point of developing that as thoroughly as we could.

I think that's one place where there was a direct tie to legal education because this business of federal jurisdiction had been certainly emphasized when I was at Harvard. I think Adolph had gotten a highly similar emphasis on it when he had been at Boalt.

I always felt that the acceptance of the proposition that the federal jurisdictional arguments were of prime importance was a result of the type of law school training we had. Of course, I can't relate it to Horton's apparent obliviousness to the importance of the jurisdictional questions. Horton was a Stanford graduate, sometime in the twenties, and lord knows

Goldberg: what they taught at that time. But he certainly didn't show off to advantage, either in comparison to us or in comparison to his own colleague, Alvin Rockwell.

Rockwell, I think, was as alert to the jurisdictional problems as Adolph and I were and perhaps more so.

Chall: Following that case, there was an attempt, several times actually, to reorganize the Division of Water Resources and its agencies into a department; one of the sticky points, as I recall, the last couple of times, dealt with the place of the attorney general in this new department.

It seemed to me some of that was based on animosity of the water people toward Attorney General Brown and you at the time and they didn't want the attorney general to have anything to do with the new department.

Goldberg: That's correct. I don't know what the law is now, but the Department of Water Resources wanted to have its own counsel and handle its own cases. This, of course, becomes particularly meaningful in a state such as California where you're liable to have a governor of one party or political attitude and an attorney general of a different one. Unlike the United States, here the attorney general is really an independent functionary.

Chall: I read some of those hearings and was impressed with the fact that Caspar Weinberger, in the latest, the finally successful plan, was so concerned about the Ivanhoe case that he said he had gone into the attorney general's office and read all the briefs and tried to find out as much as he possibly could about it so that he would understand what this general hostility was all about. Do you recall Caspar Weinberger's role and your participation in the hearing at all?*

The material, of course, is in the files, in the records. I just wondered what you might recall of that particular time. And Mr. Weinberger.

*"A Department of Water Resources for California," Report of the Assembly Committee on Government Organization to the California State Legislature. February 8, 1956.

Goldberg: I'll tell you the truth. I don't really recall much about that. I do recall this: we had one hearing and Mr. Weinberger was going on at some length and I interrupted him by pointing out that the court reporter who was taking down what he was saying had run out of paper in her little machine and had been typing for some few minutes on [chuckles] a blank roller. If he'd pause a minute, he might have his words recorded for posterity, but otherwise they would not be.

But I don't really have in mind how those problems were solved.

Chall: They were solved. I just was interested in your reactions to the problem that Ivanhoe presented, but we can go on.

When you were working with Mr. Moskovitz on the Ivanhoe problem, did you also get to know at that time Ralph Brody and any other attorneys in the Central Valley Project, the Bureau of Reclamation?

Goldberg: Oh, yes. Yes, I knew a great many of them from the top on down. I think Ed Fisher was then the general counsel for either the Department of the Interior or the Bureau of Reclamation--I don't recall.

Chall: Did you learn the water law from these people? The background and what you needed? Moskovitz, I'm sure, must have learned as he worked with you.

Goldberg: Adolph had worked for the Bureau of Reclamation. I think, indeed, that may have been his first job out of law school. I also, in Rank against Krug, worked with Bob Burton, who worked for the Bureau of Reclamation and had actually worked on water rights for the Bureau of Reclamation.

I must point out that I really don't consider myself an authority on water law as such; that is, the law relating to diversion, and use, and priority of use, et cetera, of water. My interest is really more in the functioning of local government and the relationship between local government and the state on the one hand, and the United States on the other.

One of my motivating forces was to assert and preserve the authority of the state and its local agencies to cooperate with the United States.

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Goldberg: I had, while working in the attorney general's office, handled a number of cases on welfare matters for one of the departments. I forget what we used to call it--Department of Employment or

Goldberg: Unemployment Insurance Commission, or some such. I was well aware of the need for the state to remain in conformity with the requirements of the Social Security Act, and the parallel between remaining in conformity with requirements of the Social Security Act and remaining in conformity with the requirements of the Reclamation Act is really quite striking.

In one of the Ivanhoe briefs--I don't recall which one--but in one of the Ivanhoe briefs, I actually had a catalog compiled of various state statutes, including a number of the social welfare statutes, that could be affected by restricting the state's ability to adhere to federal requirements. You'll find cited in the Ivanhoe case such things as Steward Machine Company against Davis, which I think is in the original Social Security Act case.

Chall: Did you adopt, in time, a philosophy about the 160-acre limit, or was this merely a legal concern of yours? It goes on for a number of years, of course, in your work in water. I just was interested in that, whether there was a philosophy behind it or it developed eventually.

Goldberg: On the merits of the acreage limitation as such, the idea of fostering the family farm, I have blown hot and cold. I don't really feel that I, as an individual, am capable of really forming an opinion there. I don't know enough about agricultural economics, about rural living, to say whether the goal of small family farms and a robust yeomanry, as was envisaged, they say, by Thomas Jefferson, has any reality today or not. I do know--I'm recalling back now over almost thirty years--how when I first went down into the Central Valley with the idea of looking at such things, how impressed I was by the difference between the development on the west side where we had the large farms, and on the east side where we had rather pleasant, thriving towns such as Dinuba, and Selma, and Orange Cove, and so on. That you just couldn't help seeing.

I remember going by a west-side ranch--I think it was called El Solyo--and seeing a field of tomato plants that stretched off in the distance practically to the horizon, and round about, a few hovels with some little rather dirty-looking Mexican children playing around, and thinking to myself, "Well, this may be a great way of raising tomatoes, but is it a good way of raising kids?"

On the other hand, I'm also well aware of the fact you can go over on the east side and you find the farmers who prosper there, as soon as they make a little money off their farms, the first thing they do is move into nice homes in the fig-garden area of Fresno. So I wonder to myself whether really the family farm does have much meaning.

Goldberg: No, what really got to me was this--that I didn't think that anybody had a right to be subsidized. I may have said this already--I don't think anybody has a right to be subsidized more simply because he happens to own more in the first place. That is, that the United States can limit the extent of its subsidies, just the same as they've done under the Social Security Act, and that it wasn't worth altering the Constitution of the United States to change this, to me, self-evident proposition.

No, if somebody were to come along and say that a proper acreage limitation is 320 or 640, I don't know that I could argue about that. I do think that there is a serious question as to what extent agriculture should be subsidized at all. But these are--I would view them really as economic rather than legal problems. As far as the law is concerned, the state or the United States has a fairly free hand to adopt whatever policy seems appropriate at the time of adoption.

I think I was more interested in preserving the state and the United States freedom of action than in the acreage limitation as such.

Chall: It has been suggested that Attorney General Brown allowed you to argue the Ivanhoe case before the Supreme Court instead of doing it himself because he was preparing to run for governor and could not afford to incur the hostility of the landowners more than he already had. What do you think of that theory?

Goldberg: Not much. Brown had already incurred whatever hostility he was going to incur. I believe he said something about his making a short opening, and I said not to because we had been admonished to argue jurisdiction first. If he had made such an opening, it would have marred our argument as much as Horton's opening, for which Frankfurter rebuked him, marred that of the landowners.

Chall: Sometime earlier you spoke about that "fabulous character, Mike Straus." He certainly aroused much hostility among some land and water people in California. Could you explain why?

Goldberg: I can only give you a personal impression, not an historical account. By the time I got into the act, Straus's unpopularity in California was thoroughly established, and I accepted it as a fact of life as I accepted the equal unpopularity of Dick Boke, the then-regional director of the bureau. These men were unpopular because they were enthusiastically and ably enforcing an unpopular law--the acreage limitation--and an unpopular policy--public power. My hunch is that Straus rather enjoyed his unpopularity. He was a very articulate and witty man and seemed

Goldberg: to enjoy the opportunity to be more of a curmudgeon than his boss, Secretary Ickes. Long after Ivanhoe, I got to know Straus personally a bit, had dinner at his home and listened to him. I am as sure as one can be in the absence of an express admission on his part that he relished baiting his opponents. I think of him now as an overgrown pixy.

The San Luis Reservoir Joint Service Contract, 1961

Chall: Could we move in just sort of a straight line on that one question [acreage limitation] and consider the San Luis Reservoir issue? There, it was argued that the 160-acre limit wouldn't apply to the State Water Project. It could just as easily, on the face of it, have gone the other way, since Congress had determined, in fact, that it was supposed to apply to the state project.

Goldberg: I don't know where you got that last statement from, but my recollection is that Congress, instead of resolving the problem, just tried to shove it off on the courts. That they couldn't resolve it. Senator Morse wanted to go one way; some other Senator wanted to go another way. Someplace in the stack of notes I have on my desk, you'd find the arguments on the floor of Congress, some rather impassioned speeches in which we find that everything is being left to the courts to resolve.

Chall: My assumption is based on the fact that when the Senate and the House finally passed the act in 1960, they removed a section [Section 7, H.R. 7155] that stated that the acreage limitation would not apply to state projects, leaving the assumption that it would apply. Then they sent it off to the Department of the Interior to establish a contract between the state and the federal government.

Goldberg: We're up against the interesting legal problem on which I have a note someplace--the interpretive effect of a bill that has not passed, or a section that was excluded.

The application of the acreage limitation to the San Luis project, of course, can--I haven't followed it closely enough in recent years to know whether I can say still, but certainly at the time that I was interested in it could have gone either way. The theory was that since the state was going to require its users to pay the full cost of the water, there was no subsidy reason for applying the acreage limitation. There may have been

Goldberg: a policy reason, such as a policy of fostering family farms, for doing so, but there was no financial reason for doing so, and the reclamation law, which was based on the theory of subsidized agricultural water simply as a reason for the limitation, simply had no application thereto.

I don't say that theory's unassailable.

Chall: That was the basis apparently upon which Mr. [Frank J.] Barry made his decision?

Goldberg: I don't recall that in that detail. All I know is that they finally decided on one basis or another that the limitation did not apply. Perhaps you can tell me, is that now under attack?

Chall: Well, yes, in a sense. It was a case before Judge Oliver Carter in the U.S. District Court for Northern California, in 1973. He ruled that the acreage limit did not apply to the state project.*

I just want to know, without having to read your brief, the basis on which you wrote your own brief. Did you tell me that you were back in Washington quite often during that period? There was a great deal at stake in the secretary's final decision. Toward the very end you wrote your lengthy brief. Did it seem at that point essential that the state set forth its case quite clearly? Were Mr. Barry and Secretary Udall having considerable difficulty in making a decision?

Goldberg: [emphatically] Yes!

Chall: I thought that they were because it took them a year...

Goldberg: They were having difficulty making a decision, and you've got to, again, look at the politics of the situation.

Chall: What were they?

Goldberg: Well, you have a Democratic administration in Washington which would like to enforce the acreage limitation. You have a prominent Democratic governor in California, who, for his own political health in California, would like not to have the

*Bowker et al v. Morton et al.

Goldberg: acreage limitation applied, and therefore you have a conflict within the party. Sort of a family row, as it were. Perhaps one of those situations where you have to rise above principle.

Chall: [chuckling] To quote Mr. Unruh.

Goldberg: Yes. That's the way I recall it now. What the reality...

Chall: You were working for the Department of Water Resources as deputy director at the time, and also, weren't you Governor Brown's counsel on water interests, so you had a dual role?

Goldberg: Yes. I had a dual title. Really, I functioned more for the governor than I did for the department. Partly through choice and partly through necessity, I involved myself with the actual administration of the department as little as I could.

Chall: Was emotional fervor running fairly high during that year?

Goldberg: Oh, yes. I see now references to Senator Engle, who was very much involved in this. How fleeting is glory. Senator Engle was so important, and now I have to pause and--

Chall: --try to remember his first name?

Goldberg: No, I remember his first name. His first name was Clair. I recall him as a member of the House of Representatives and his participation in the Fallbrook hearing, which is something that we haven't mentioned.

Chall: Senator Kuchel, at the time; Bernard Sisk, Bizz Johnson, Harlan Hagen.

Goldberg: Yes, I remember them.

Chall: When you went back to Washington, whom would you talk to?

Goldberg: To tell you the truth, when I'd get back to Washington, I would talk to anybody who would talk to me! [laughs] But at one stage, I became very well acquainted with Senator Carl Hayden from Arizona, who invariably confused me with Eddie Weinberg, who was an attorney for the Department of the Interior, at that time. I could never understand the confusion because there I was, tall and rather gaunt, and Weinberg was short and rather fat, and he was always calling me Weinberg.

Chall: What else can you recall about the activity at the state level and contacts in Washington? Also, what kind of argument or pressure, and on whom, by whom, do you think brought about the final decision to accept the joint contract without the 160-acre limitation?

Goldberg: The final decision was made in Washington ostensibly by Secretary Udall. All I know is what we argued, and that is in my memo. Our motive was to protect the financial integrity of the State Water Project by keeping the large landowners in. If the acreage limitation were applied, they may have executed their threats not to contract for water, and if they had the state would have been hurt as a creditor and by eventual diminution of its agricultural resource. I suppose the answer is that we did not consider the threats idle ones.

Rank against Krug

Chall: Back to the court cases between '50 and '58, then. What about Rank v. Krug*? I've never paid too much attention to what that was all about. I have a little article here from Western Water News that might refresh your memory, although I'm sure you know it well. Explain that case, and the time you came upon it. That's a long one.

Goldberg: That was a long one; yes, it was. That was some 270 trial days and 27,000 pages of transcript. When you say explain it to you, you remind me of the talmudic story. I think it was the Emperor Hadrian [who] said to Rabbi Akiba, "Explain Judaism to me while standing on one foot." And Rabbi Akiba said, "Do unto others as you'd have them do unto you. That's the law. All the rest is commentary." Well, I can't achieve that one.

*Rank v. Krug, 90 F. Supp. 773 (S.D. Cal. 1950) (motion to dismiss denied); Rank v. Krug, 142 F. Supp. 1 (S.D. Cal. 1956) (judg. for pffs.); rev'd in part and aff'd in part sub nom. California v. Rank, 293 F. 2d 340 (9th Cir. 1961), 307 F. 2d 96 (9th Cir. 1962); rev'd with directions to dismiss sub nom. Dugan v. Rank, 372 U.S. 609 (1963), City of Fresno v. California, 372 U.S. 627 (1963).

Collateral litigation and opinions: United States v. United States District Court, 206 F. 2d 303 (9th Cir. 1953); State of California v. United States District Court, 213 F. 2d 818 (9th Cir. 1954); Rank v. United States, 16 F.R.D. 310 (S.D. Cal. 1954); City of Fresno v. Edmonston, 131 F. Supp. 421 (S.D. Cal. 1955).

See also 18 Ops. Cal. Atty. Gen. 31 (1951).

Chall: Well, maybe you don't have to explain it to me. Maybe somebody else can read it and understand it.

Goldberg: It cannot be understood by reading.

Chall: It can't?

Goldberg: No.

Chall: Well, then you'll have to explain it, won't you, to me?

Goldberg: Yes. As I told you this morning, part of California's opposition to the acreage limitation was not only opposition to the acreage limitation as such, but also a desire to protect the Imperial Irrigation District, which had been exempted from the acreage limitation on the basis of the letter by Secretary Wilber. I think I already told you this on the tape, did I not?

Chall: Yes.

Goldberg: All right. In addition, and this can't be documented--I put it out solely as my personal impression which I gained over the years. In addition, there was the problem of California's other rights than the Imperial, but they included Imperial's, in the Colorado River. You can start with the simple assumption that it doesn't make any difference what Arizona is entitled to if Arizona doesn't have means of getting at its water.

The only way that appeared to be feasible for Arizona to take its entitlement, whatever it might be, would be through federal financing, and therefore a way of protecting California on the Colorado was to embarrass the United States in the financing of reclamation projects. To curtail the United States' power to operate reclamation projects insofar as that could be done.

So comes the case of Rank against Krug, which is an effort now to enjoin, that is, specifically interfere, through the court, with the operation of Friant Dam; to get a decree out of the court saying that the United States has to release a given amount of water to protect water users below the dam.

Joined with that was an effort to protect fish life below the dam. So we have the fish interests and these landowners in the reach between--I think it was--Friant and a point called Gravelly Ford.

Chall: Were the fish interests and the land interests joined together, or were they at odds with each other?

Goldberg: Well, at one time, they were both represented by a man named Claude Rowe, who was an attorney in Fresno. But that was before I got involved. The attorney general of California, acting through the late Mr. Arvin Shaw, wrote an opinion holding the acreage limitation unconstitutional and then there was an effort to involve him in protecting the fish, but Mr. Shaw was an ardent irrigationist. He wanted, as far as I can recall it, no part of protecting this fish life. This kind of went against the grain. I remember vaguely an effort to get the attorney general into the case to protect the fish. That was still pendant when my first participation in Rank against Krug occurred.

Chall: That would have been under--

Goldberg: Howser.

Chall: --Howser still.

Goldberg: But that continued for a while under Brown too. I suppose because none of us at the time realized the interconnection between Rank against Krug and the acreage limitation cases. The judge who was handling Rank against Krug was Pierson Hall. Judge Hall was a great friend of Sheridan Downey, formerly Senator Sheridan Downey.

Senator Downey had written what, for a time, was a famous little book called They Would Rule the Valley, and had also conducted the hearings on--I think I have that [looking through papers]--Senate [Bill] 912. Those hearings were entitled Hearings Before a Subcommittee of the Committee on Public Lands, United States Senate, 80th Congress, First Session on Senate 912, May and June of 1947.

I don't recall whether those preceeded or followed his book.

Judge Hall was also from Southern California. He had been a city councilman of Los Angeles. Although he and I had various personal frictions, I must say he was an extremely capable man. the sort of man I would not like to have to encounter again. Very able and shrewd.

I always had the impression that Judge Hall saw Rank against Krug in the beginning as I eventually came to see it--as a means of embarrassing the United States in the actual physical conduct of the water project, and thereby adding a little fuel to the fire that the Colorado River interests were trying to build in Southern California.

Goldberg: So Judge Hall held that the United States had not acquired the water rights necessary to run the Central Valley Project insofar as it concerned this group of landowners, and that the United States had to make certain releases for Friant Dam to satisfy those rights.

Those releases were incompatible with the best use of the Friant-Kern and Madera canals and in certain years could have actually required the deliveries through those canals to be diminished and also could have required more expensive water. That is, the contracts distinguished between water firmly available, which is sold at one price, and water intermittently available, which is sold at a lower price. The judgment would have required the delivery of the firm water when intermittent water would otherwise have been available, and it would cost the irrigators more.

I got into the case after, I think--this is vague in my recollection--I think the state had already taken a position in favor of the fish. I got into the case, as somebody who was already in Ivanhoe, and reversed the state's position and said "no go"--that actually Judge Hall had no jurisdiction to grant an injunction, on the ground that the United States had authority to take--and I mean this literally--physically take whatever water it needed for the operation of the project.

Now, this is the so-called power of inverse condemnation, the taking of property first and compensating the owner later if he proves that he has a property right. You'll notice that the Constitution of the United States says that property shall not be taken for public use without compensation. Unlike the constitution of California and some other states, it does not say public property shall not be taken for the public use without compensation first being made. That is, you can take and pay later.

My position, in a nutshell, and this is substantially the position of the United States, was that the United States, whatever it had taken, made no difference. If these people had water rights--which, by the way, was a question of considerable dispute, as to who had water rights and what sort of rights they were--if these people had water rights that were interfered with, their sole remedy was to sue the United States for damages under the Tucker Act, which then, I think, in the amounts involved, would have required a suit in the United States Court of Claims similar to the Gerlach case.

Goldberg: You may have heard of the Gerlach case. [U.S. v. Gerlach Live Stock Co., 339 U.S. 725 (1950).] The Gerlach case involved the rather similar situation, but downstream from Gravelly Ford.

Chall: It's been a hotly contested area, hasn't it?

Goldberg: Oh, yes. We lawyers used to talk about these areas as not being irrigation districts but litigation districts.

Judge Hall eventually wrote an elaborate opinion to the effect that the United States did not acquire the rights, could not acquire the rights, and therefore, the releases had to be made pursuant to his injunctive order which would define the various rights that had to be satisfied.

An interesting thing about his opinion that stuck in my mind was that he quoted the Central Valley Project Act. The act which actually authorized the building of the Central Valley Project by the United States is in one of the flood control acts of the mid-thirties. I can't recall which one now. But that statute provided that the United States could acquire water rights by eminent domain or otherwise. I'm quoting now, "by eminent domain or otherwise."

In his opinion, Judge Hall omitted the words "or otherwise."

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Goldberg: "Or otherwise" recognizes the authority to take rights by inverse condemnation, and so we promptly appealed Judge Hall's decision. The court of appeals gave us what I would call a ninety percent victory. Again, the exact details I don't remember.

J. Lee Rankin was then the solicitor general of the United States. This was during the Eisenhower administration. And Mr. Rankin, I believe, is a nephew of the late Jeannette Rankin, who was, I think, the first woman to be elected to the House of Representatives.

Chall: Right.

Goldberg: Mr. Rankin insisted that we go to the U.S. Supreme Court. I remember arguing with him about it. I told him, "You know, we've got a ninety percent victory; let's leave it alone. If you go to the well too often, you're going to fall in," et cetera, but that cut no ice. He insisted that we ask the U.S. Supreme Court for certiorari, which we did, and it was granted.

Goldberg: By the time the case came up for argument, the Eisenhower administration was out, the Kennedy administration was in, and the solicitor general was now Mr. Archibald Cox. The United States in this case, unlike Ivanhoe, was an actual party, and under the etiquette of the Supreme Court, Mr. Cox got to argue first. Again, unlike Ivanhoe, this case involved some explanation of the physical features of the project. At one point, Cox-- I don't know if he'd ever seen the Central Valley Project--said something wrong about Tulare Lake [laughs], and I thought to myself, "My God, we're going to lose this, because Cox doesn't know about the watershed of Tulare Lake." [laughter]

But the fact of the matter is that we didn't lose at all. We succeeded in getting a hands-down victory. I often wish that I had saved--I forget what the United States Supreme Court calls its final order--mandate, remittitur, or rescript, or some such. I often wish I had saved that as a memento, because the final words were reversed with directions to dismiss, which was a wholesale acceptance of what I had been telling Judge Hall for some three or four years: "Judge, you don't have any jurisdiction to do what you're doing."

That was in 1963 or '64, I think. Anyway, it seemed to me it was about sixteen years after the case had begun. I always thought that the persistence of Rank against Krug--because, you see, as I've explained it, it's really fairly simple--but the persistence of Rank against Krug, the inflation of that case out of all reasonable proportion, was explainable really as a desire to keep litigation going in order to enhance California's position on the Colorado River. Now, that may be pure guesswork on my part, but it does seem to be a rationalization of what otherwise is, to me, to this day, inexplicable.

Just to give you an idea of the physical magnitude of Rank against Krug, I found in the notes that I brought down for this session, the index which Bob Burton made on the exhibits. He is now an assistant attorney general in California, but at that time, I think, he was working for the old Water Project Authority, or perhaps he was a deputy attorney general; I don't know. But he worked with me.

Among his other functions was the function of preparing an index to the exhibits. And I happened to have found a copy of that and I will show it to you. [searches through papers]*

*This index and all of the papers saved through the years by Judge Goldberg have been deposited in the Water Resources Archives of the University of California at Berkeley.

Chall: My, that's just an index, all those pages?

Goldberg: This is just an index. For example, I turn to the title "Intervenor's exhibits." And this was only kept until 1953. I don't know whether that was the end of the case or not, but here is an intervenor's exhibit entitled "Cal-A-30-A," a schematic diagram, et cetera, describing the exhibit. [reading from document] "Put into evidence on June 11, 1953, at page of transcript 21,992."

I literally had a bookcase full of transcripts on that. [looking through index] Here's another one. I'm looking at the Defendant's exhibits. This was the individual defendants, employees of the Bureau of Reclamation. "A-89-A--a paper sack containing shells picked up by the court on June 17, 1953, approximately three feet below the surface of the ground at the bluffs near Herndon, in evidence of page 22,233" and so on.

Chall: It sounds as if they dug up everything.

Goldberg: Oh yes, we literally dug stuff up.

Chall: It didn't lay any new ground, then, this decision?

Goldberg: No. No.

Chall: It wasn't as essential or important as the Ivanhoe decision was in terms of the 160 acres?

Goldberg: It would have been an important decision only if it had been decided incorrectly.

Chall: Against you.

Goldberg: That is right.

Chall: I see.

Could you explain to me a little more about what you mean by the Southern California interests using these cases to prevent their loss of the Colorado River, or at least to keep the federal reclamation law out of the state if possible? Is that what you mean?

Goldberg: No. Actually, they didn't want to keep the federal reclamation law out of the state because they had gotten everything they wanted from the federal.

- Chall: That's right. So I'm trying to figure out what the concern was.
- Goldberg: What they were trying was to keep the United States from building a project for Arizona.
- Chall: I see.
- Goldberg: So if you can paint the United States as an inept operator of reclamation projects, then when Arizona comes with its bill to authorize what we now call the Central Arizona Project--the United States comes along with its bill--you can say to your friends from the East, "Well, now look at the mess that the United States has created. You shouldn't authorize a great big reclamation project like that with all these questions going around, spending millions of dollars on a really speculative venture."
- Chall: That would also mean, then, that they could pretty well assure the proposition that the so-called Feather River Project, the California Water Project, which had been in the engineering works, would be built by the state rather than the federal government. That was another one of their concerns, I think.
- Goldberg: Yes! Oh, yes! Because, really, the principal source of financial support for the Feather River Project had to be the Metropolitan Water District. The Feather River Project actually is a much less expensive project than the Central Arizona Project, well within--it was then--well within the ability of the Metropolitan Water District to finance. Bear in mind, this was long before anybody had thought of anything like Proposition 13.

Arizona against California: An Appraisal of the "Long Suit"

- Chall: What about Arizona v. California? That was one of the major cases that you didn't handle.
- Goldberg: I didn't participate in Arizona against California. I remember, of course, studying it in a rather general way. It's obvious from what I've told you of my appraisal of Rank against Krug and Ivanhoe that I was not sympathetic with the point of view that we should try to embarrass the United States as a tactic of defeating the possible authorization of a project for Arizona.

Goldberg: One phase of that was that always in the back of my mind was the thought that someday California might need federal assistance. The day might come when California might have to look to such sources as, say, the Columbia or the Snake, or who knows what, the rivers of the northwestern states. If that eventuality ever came to pass, we would want the United States to be a capable instrument, not as Harry Horton would paint it, as an intruder. [chuckles]

Again, by way of anecdotal example, I remember Horton arguing the United States came in to California and did something or other. And I replied, "You mean the United States came in here? I thought they were here all the time." I guess those are the two sides of one coin.

Another thing, I made as dispassionate an appraisal of Arizona against California as I could. It's pretty hard to do when you consider the complexities of the case. But trying to simplify it in my own mind, I came up with this proposition: that California had limited itself, by the so-called California Limitation Act, which was a condition of passage of federal authorization for what we now know as Hoover Dam--California had limited itself to 4,400,000 acre-feet of water per year and one-half of the surplus.

There was no surplus and California ended up with contracts for 5,300,000 acre-feet. I thought that that discrepancy of 900,000 acre-feet--I remember saying this to then-Governor Brown--I said, "I think that difference of 900,000 acre-feet is going to be pretty hard to explain, and I don't think that two years before the Supreme Court's enough to do it."

I really just had the hunch that Arizona against California was a loser and I didn't want any part of it.

Chall: So Northcutt Ely had it--the whole thing. That was an assigned...

Goldberg: That was assigned to Northcutt Ely, I suppose, because of the death of Mr. Shaw. Shaw may very well have had it if he had survived.

Chall: Did Shaw remain, then, in the attorney general's office despite the fact that he had been taken off the case?

Goldberg: He never really was. He never really was in the attorney general's office. He was in private practice in Los Angeles and he had a title, assistant attorney general of California, but I think he was actually paid on a per diem basis.

Goldberg: His employment with the state attorney general's office long antedated the civil service system that we now have. I think he had originally been attorney for the Palos Verdes Irrigation District. It may have gone back even to the days of Attorney General [Ulysses S.] Webb. When the Colorado problems first started, Shaw, because of his familiarity with the Colorado River through his Palos Verdes connections, was taken on.

Again, that's my recollection. I couldn't testify to that under oath; that's a glimmer in the back of my mind.

Chall: I just couldn't quite see this connection over the years here.

Goldberg: He, again, was really very well informed, a good lawyer, and one of my lasting regrets, actually, is that because I found myself coming to opposite conclusions than he had come to--one of my regrets is that I couldn't have been friendlier with him than I was. I admired Shaw as a lawyer.

II DEPUTY DIRECTOR, DEPARTMENT OF WATER RESOURCES, AND
COUNSEL TO GOVERNOR EDMUND G. BROWN, SR., 1961-1966

- Chall: How did you define your position with the Department of Water Resources and with Governor Brown, between '61 and...When were you appointed to the bench?
- Goldberg: Sixty-six.
- Chall: You said you preferred to be in the governor's office rather than work as deputy? Where did you have your office?
- Goldberg: I actually had my office in the department, and I actually did a good deal of work for the department. What I said, I think, and if I didn't say it, this is certainly what I meant: I actually preferred to function more as the governor's water counsel than I did as deputy director. After all, if I truly functioned as deputy director, and particularly after Jim Wright left in '61 or '62 as chief deputy director, I would have been much more active in such things as personnel, budgeting, and general departmental administration than I ever chose to be.
- Chall: So you preferred to be in law?
- Goldberg: Yes.
- Chall: Generally, what were your relationships with Mr. [William] Warne? Did you usually agree on most issues that arose in the department?
- Goldberg: I have to stop and think whether I ever had a serious disagreement with Bill Warne. The only thing that I can come up with is that I never agreed with him that we should have staff meetings at 7:30 in the morning.
- Chall: [chuckles] Yes, on Monday.

Goldberg: I recall remarking to him once that just because he had been director of agriculture at some time or other, was no reason that I should get up with the chickens.

I considered Warne a superb administrator. I think we were very, very fortunate to have a man of his ability and character in charge during the construction period of that project. Of course, it's only scandals that make the news. But when you consider the amount of money that he was responsible for, the nature of the construction that he was responsible for, the type of decisions that he had to make, and that all of that has gone through to this day without the suggestion even of any sort of impropriety--reflect on that and you'll form your own judgment as to Bill Warne as an administrator.

Warne was a skilled administrator; he was a good judge of persons; he was very careful of his choice of associates. For example, I always thought one of his wise decisions was in picking Al Golzé as chief engineer. Because to push a project of that sort through, without any really major difficulty, that just doesn't come about through good luck.

Chall: There were some materials I saw in the Brown papers dealing with those days of the Pacific Southwest Water Plan, in which there seemed to be considerable difference of opinion between you and [Stanley] Mosk, and the Metropolitan Water District, and Senator Kuchel, and others. I guess it was almost like a Southern versus Northern California point of view.

Goldberg: I don't recall the exact nature of the difference, but you see, I had left the attorney general's office; Rank against Krug had gotten itself disposed of; Ivanhoe had been dead for a couple of years, at least; and the only big water case going was Arizona against California. Judge Mosk, as attorney general, had worked on Arizona against California within the office, as distinguished from Northcutt Ely outside the office. He had, working within the office, a man by the name of Charles Corker, who is now, I believe, a professor of law at the University of Washington, and had been on the faculty at Stanford. Again, a highly qualified lawyer. This is not your run-of-the-mill civil servant. Corker, of course, was working on Arizona against California and dedicated to winning it, if he could, and dedicated to minimizing its impact if he lost.

I think Attorney General Mosk's point of view was based upon what he learned from Charlie Corker; indeed, it had to be based on what he learned from Charlie Corker because there was nobody

Goldberg: else in his confidence to tell him differently. I don't think you could expect him--I don't recall if he ever solicited me for any opinion--but even if he had, you couldn't expect him to rely upon me particularly, because by that time I was working for Brown.

As I said before, the attorney general--even when they're both of the same political party in California, the attorney general is an independent entity.

Chall: So that the main problem in those days was getting Senator Hayden to accept the proposition to let us build the Auburn Dam-South Folsom Canal and at the same time get Congress not to agree to authorize the Central Arizona Project?

Goldberg: There we're coming to a head! We still want some federal money here. But how do we get federal money for California if we're saying you can't have it for Arizona?

Chall: And Southern California, or California rather, wanted its absolute entitlement to that 4.4 million acre-feet of water or wouldn't give way.

Goldberg: Well, I don't think there's any question about being entitled to the 4.4 million as long as it's there. But the problem is beyond the 4.4; 4.4 isn't enough for us! Cutting through the whole thing, unfortunately, is the problem of the degradation of the quality of the Colorado River, which I think is something that really nobody ever foresaw.

Chall: Yes, that's right.

Goldberg: That was one of California's, I thought, good arguments against the so-called Frying Pan Arkansas Project, which takes water out of the Colorado watershed and puts it into the east slope.

Whether California could have defeated that Frying Pan Arkansas thing--I always thought there were highly legitimate grounds for defeating that. Whether California could have defeated that if it had had a different image back in Washington, a less obstructionist image, that's a matter of speculation.

Cases Relating to the Contract and the Sale of Bonds for the
State Water Project

Chall: A few notes I have here deal with the Marquardt case [Metropolitan Water District against Marquardt]. You wrote to Pat Brown when Warne vs. Harkness had been concluded, asking that he recognize Fred Bold's services in Warne vs. Harkness. You realized that he had had an uphill fight, but he took the case because he felt it would be a public service to get the issues through, thoroughly aired. Do you recall Fred Bold?

Goldberg: Yes. Fred Bold--I haven't seen him in many years, but he was an attorney in Richmond. I don't recall when I first encountered him. He had done some work for various public districts. He was the sort of lawyer who struck me as capable of putting on a good argument in a case of this sort. After all, there aren't too many lawyers who are either familiar with or interested enough in this sort of thing to do an adequate job.

In cases such as Marquardt, you have what may always be attacked as a sort of collusive suit and I wanted to eliminate as much basis for such an attack as I could.

Chall: But you were explaining to me this morning that Marquardt was rather essential in order to get those water bonds sold.

Goldberg: Yes. This is one of the--[searching through material] Here's Warne against Champion; that's the wrong one. Yes, here's the Metropolitan Water District against Marquardt. [continues search] We're up to our ears in briefs.

Yes, here's the case that I was telling you about that set the pattern for these sort of things. It's Golden Gate Bridge District against Felt, 214 Cal. 308.

Chall: Didn't you also tell me about the Mallon case?

Goldberg: The Mallon case was something different. Goodness! Is there another set of briefs in Marquardt? I don't find my own. I don't know how many briefs there were.

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Goldberg: [Finds brief] I'm reading from the reply brief of the State of California in Metropolitan Water District against Marquardt. My copy is dated June 29, 1962. I'm looking at page three, which

Goldberg: has a continuation of footnote five. It says, "The time honored method of obtaining a judicial determination of such fundamental basic issues"--that is, of the state's liability to be on the bonds--"is by this form of proceeding"--meaning an original proceeding and mandate in the supreme court.

"The first case under what is now the Irrigation District Law was an original proceeding--mandamus to compel the secretary of the district to sign bonds. Turlock Irrigation District against Williams, 76 Cal. 360 (1888).

"Such use of mandamus has been so convenient and frequent that in the modern cases it is now simply acknowledged to be an appropriate remedy. Golden Gate Bridge District against Felt, 214 Cal. 308 at 318-19 (1931); Metropolitan Water District against Heilbron, 167 Cal. App. 2d 192 (1959).

"There are only two set tests of the propriety of the remedy; the first is whether the proceeding is of sufficient importance to be brought in the original jurisdiction of this court. This was settled when the court sent the case to hearing on the merits. The other is whether the suit is collusive. In view of the extensive participation herein by the respondent and amici curiae who not only disagree with us but occasionally disagree among themselves, the charge of collusion is frivolous and San Joaquin practically so concedes."

But the leading case, the root case for our purposes, for justifying this form of proceeding, was Golden Gate Bridge District against Felt.

Chall: By this form of proceeding, you mean going directly to the supreme court?

Goldberg: Yes.

Chall: This was to insure that these bonds--that the contract was a good one?

Goldberg: That the contract was good, would be good security for the bond. And we tied the contract to the bond as a device for assuring the water users that the state will not unilaterally abrogate the contract because of the fears engendered by the Mallon case.

The Mallon case is the case in which the state recovered various monies from the city of Long Beach that had been dedicated to Long Beach under their arrangement for taking oil out of the Long Beach tidelands.

Chall: Right. That was very important.

Goldberg: And it's the case that holds, I suppose on the basis of another case called Trenton against New Jersey, that a city, a public entity of the state, had no constitutionally protected rights or contractual due process rights, I think, against the state itself.

Chall: This is really what was for long years a problem with respect to getting the Feather River Project moving without a constitutional amendment because they couldn't agree on some language of this kind. A constitutional amendment, I guess, was to provide assurance that if they paid for water--the south--the water could not be taken away by some change in state policy.

Goldberg: Of course, even a constitutional amendment would have done no good if the people at some future time wanted to change the constitution.

Chall: Yes, that is so. Do you know who was behind the concept in SB 1106--insuring that this legislative act would make it possible to put through a project of this kind if all the projects, or the aspects of it, were laid into the law? This was a rather unique approach to getting this accomplished--this Feather River Project Act. It may have been [Ralph] Brody.

Goldberg: It may have been Brody. I started to say I don't really know who really planted the seed, who conceived the idea. [pause] I think it may have been Brody. I know after the idea came up, I know I worked on it because I recall reading a book, [Benjamin F.] Wright, The Contract Clause of the Constitution, which is how I became informed about these old railroad cases and reconstruction cases that I told you about. So I know that I worked on it, but--it's such an ingenious idea, I'd like to say that I conceived it, but that would not be true. [chuckles]

Chall: You are credited, I think by Erwin Cooper, for coming up with the idea of utilizing the old Central Valley Project bonds to help pay for the project.* Let's see, that was in Warne v. Harkness. Warne v. Harkness dealt with the issuance of the Central Valley Project bonds. That's the one that Mr. Bold assisted on?

*Erwin Cooper, Aqueduct Empire (Glendale, California: The Arthur H. Clark Company, 1968).

Goldberg: We'll have to see. [checks papers] Yes, Bold participated in that.

Chall: It authorized the Department of Water Resources to issue revenue bonds under provisions of the water code governing the Central Valley Project.

Now, those bonds, as I understand it, had been lying around since 1933.

Goldberg: The authority to issue them.

Chall: The authority to issue them. But I think this case was essential to get the project moving that time. I guess the companion case was California Water Resources Development Finance Committee v. Betts.

Goldberg: That was on the issuance of anticipatory notes.

Chall: I see.

Goldberg: I'm looking at Warne against Harkness and I find, in the briefs, a reprint of a letter I wrote to Charles Cooper, who was then the chief counsel for Metropolitan. I find that my thinking apparently never changed. I told you earlier, on the acreage limitation, that my real desire was to preserve the legislature's freedom to act. I find in this letter, that I wrote to Mr. Cooper on the revenue bonds, in September of '63, and I'm quoting myself, "I think it is neither legally necessary nor administratively sound to attempt to preclude the legislature of some future day from acting in accordance with what may then be the public interest."

Whatever I think, at least I'm consistent.

Chall: And that, too, went directly to the supreme court?

Goldberg: Yes. Same thing.

[looking through papers] Well, what do you know. I have an interesting note on here: "Given to the state printer on October 30 at 4:00 p.m. Completed by the state printer at 8:00 a.m. November 1." Which is an insight into how you actually practice law.

The state printer at that time was a man named Ralph Titus. He was the assistant state printer, I believe. I'd gotten acquainted a little bit with Mr. Titus, so I armed myself with

- Goldberg: a bottle of quality bourbon whiskey and went over and had a little heart-to-heart with him and said, "Ralph, I need this in an awful rush. Can you put a crew on it?" [laughter]
- Chall: They worked all night on it?
- Goldberg: Yes. The Metropolitan Water District wanted all kinds of things in there and we fought them on that.

Interesting on that, I'd forgotten about it. Preble Stolz also worked on that case.

- Chall: Was he in the attorney general's office, or he was hired?
- Goldberg: No, I think he was then on the faculty at Berkeley. But I--I think, actually, that I hired him in effect, as a consultant. I remember this. I had the state printer do a plate showing the effect of bond ratings on bond prices.
- Chall: Who had to research that information, or did that come out of Standard & Poor, or something of that kind?
- Goldberg: That came out of Standard & Poor. By way of help on that, we then had the state's financial consultants, Dillon Read Company. The prime mover in Dillon Read was a man who just died last winter, John Fowler--amazing man. He was the man who literally had written a book on revenue bonds way back in 1927 or '28. I won't say that the revenue bond was his original idea, but certainly much of the crystalization of the thinking about revenue bonds is attributable to Fowler. The idea of issuing the revenue bonds may originally have come from Fowler in the form of the question: Couldn't we use the revenue bonds?
- Chall: Oh, I see. Yes, because they'd been hired again in 1961.
- Goldberg: They were still working with us when I left in 1966.

I've often thought to myself that if any one person were entitled to credit for the success of the state's financing scheme, it was Mr. Fowler.

He was a remarkable character. I recall an incident with Mr. Fowler. We had a big meeting over at the Sacramento Inn; all sorts of engineers from the department and consultants, I think. It was still back in the days of the Charles T. Main Company, which did some study on the project.

Goldberg: It's getting late in the afternoon and someplace there are \$10 million that we can't account for. And everybody takes his turn at trying to figure out what has happened to this \$10 million that has just gone--irretrievably lost somewhere. [chuckles] Finally, Fowler says, "Oh boys, let's forget about it. In a project this size, \$10 million is a mere bagatelle." [laughter] That was the kind of man I like.

Chall: Used to dealing in billions.

Goldberg: Fowler was a highly original thinker.

Chall: Well, the State Water Project, as I understand it, seemed to have some financial difficulties right from the word go.

Goldberg: Now, here in one of the briefs is an opinion I wrote--Preble and I wrote. Both our names are on it. "Could the department issue revenue bonds under the Central Valley Project Act of '33? Our conclusion is the department now has, and after the adoption of the Burns-Porter Act, will continue to have authority to issue the revenue bonds...The two acts must be read together."

The pledge of revenues. "By this pledge, the revenues under the Burns-Porter Act"--I'm reading from the Attorney General's Opinion which appears in 36 Opinions of the California Attorney General, 160.* I'm reading from page 162. "By this pledge"--meaning the pledge under the Burns-Porter Act--"it was hoped to protect the contracts against legislative change under the ruling Mallon against the City of Long Beach." [pauses to continue to read the opinion to himself]

You've got to consider the effect of the Burns-Porter Act, the various interpretations of the Burns-Porter Act on future financing. And I say, "It is, of course, proper to consider the consequences of a proposed construction of a statute. Pearson against the State Social Welfare Board, 54 Cal. et cetera, 1960."

Pearson against the State Social Welfare Board was a case I had under the Social Security Act involving this problem of federal/state conformity. You see how all this stuff ties together?

Chall: Yes. But I thought that case had started out long before. You say 1960?

Goldberg: That's when it was finally decided by the Supreme Court.

Chall: And which Pearson would that be?

*36 Ops. Cal. Atty. Gen. 160 (1960)

- Goldberg: [spells out] P-e-a-r-s-o-n. No, that was not a long case. It was a case on what kind of assets could be used in determining aid to the disabled, or some such.
- Chall: Were these all decided on a unanimous basis in the state supreme court, do you recall?
- Goldberg: I don't remember.
- Chall: Well, that's easy to find out. But you did have enough friends on the court, if one wants to put it that way. Justice is blind and all of that, but...
- Goldberg: Yes. The court was sympathetic to this point of view.
- Chall: Gibson, Traynor--
- Goldberg: You'd have to look. I don't recall the exact composition in 1960 or '63.
- Chall: Were you aware, because you were handling the Marquardt, and the Betts, and the Harkness cases, of the concern on the part of the Department of Water Resources that the funding was not all that generous by the time the bond issue was written and Prop 1 had been passed? They didn't allow them a great latitude then, building what they planned to build?
- Goldberg: Yes.
- Chall: How did this concern show itself in the administration?
- Goldberg: One thing, there was this concern over the San Luis project. We needed that San Luis project. We needed the federal participation. If we had built a, for example, small facility at San Luis simply for ourselves, it would have cost us much more than going in with the federal.
- Chall: And also you needed the Kern County group in there. They hadn't signed a contract yet.
- Goldberg: No. We needed them. There was another one. I can't recall. [pause] My hunch is that we were also concerned with the construction of a power plant down around the general area of the Kern County pumping plant. Which, in fact, was not built.

Oh, yes! We were also very much concerned with the use of the flood control allocated money, for construction of Oroville. The federal government had a flood control allocation there. Actually, it was relatively small, but it was important.

- Chall: Every ten million really did count.
- Goldberg: Yes. And we were also concerned with the allocation of money from tidelands, which again was relatively small but highly important.
- Chall: Yes. And some of that money eventually was put into education rather than what had been anticipated as the total amount going into water. Do you recall any kind of controversy inside the administration as well as with the legislature over that?
- Goldberg: I don't recall any inside the administration, no. I don't think I was particularly involved in that actual allocation.
- Chall: What about the development of the rate structure? First, of course, was just the prototype contract with the Metropolitan Water District, those very trying months. It took quite a while before that contract actually came out so that the Metropolitan Water District could even argue it, although I think they had been working on it for quite some time. But there wasn't anything developed by the state. Did you have anything to do with the development of that?
- Goldberg: No, that contract was negotiated through the Department of Water Resources before I joined the department. The contract had been negotiated by the time I came on. That is the sort of thing that you might speak to [Porter] Towner about, because I recall Towner complaining about the Metropolitan Water District contract, that the Metropolitan district wanted to say everything twice, which accounts for the inordinate bulk of that contract.
- Chall: So you don't know who might have been working on that?
- Goldberg: Well, Bill Berry, Jr. worked on it. He's a lawyer. Where he is now, I don't know.
- Chall: A while ago, you told me about a Mr. Burton having worked on something. I don't remember what it was.
- Goldberg: Yes, he worked on Rank against Krug.
- Chall: What about the rate structure with the Kern County Water Agency, which provided for a special rate--allowing the farmers surplus water during the build-up of the project, at a varying rate from the so-called firm rate? Did you have anything to do with that?

Goldberg: I may have had something to do with it. But my recollection of that is that that is something I fundamentally disagreed with. Because of my disagreement with the theory, I avoided working on it.

Chall: Can you explain your disagreement with it?

Goldberg: My recollection is that I thought that it was a device to give credence to selling the water at a cheap rate.

Chall: In other words, it was giving them a subsidy of some kind?

Goldberg: Yes.

Chall: And you disagreed with that?

Goldberg: That is my recollection.

Chall: And you think that was giving favor to large landowners, that they could afford to pay--that they didn't need the subsidy?

Goldberg: I don't know that they could afford to pay. What can you afford to pay? They're in a competitive position and if they paid that much for water, maybe they could have afforded to pay it in the sense that they had the cash. But if it had put them at a competitive disadvantage, there's no point in going into that kind of business.

No, I think my disagreement was based more on the idea that I favored the Metropolitan Water District, the use of water for municipal and domestic purposes across the hill rather than using it for agriculture.

Chall: Other than that, was there a philosophical point of view with respect to agriculture?

Goldberg: [pauses] I really can't say. As I say, my impression is that I didn't like it and I stayed away from it.

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Chall: I have come to the end of the questions which I had laid out in my outline to talk to you about, and I just wonder whether you would like to add anything here. You can add more when you review, but even now, you're so full of interesting anecdotes and recollections, I'd like to have them while you think of them.

Replacing the Tracks of the Feather River Railroad

- Goldberg: Well, we haven't talked about our acquisition problem with the Feather River Railroad, which took a good deal of my time.
- Chall: No, we haven't. What about the acquisition of the railroad? Somebody has indicated to me that the railroad could have paid for moving its tracks without the state having to give them any money for it. This may be a different matter.
- Goldberg: The railroad couldn't pay to push a peanut.
- Chall: [chuckles] It couldn't?
- Goldberg: No. The railroad as such, but the railroad was the wholly owned subsidiary of the Georgia Pacific Company and virtually its only customer. One of my flanking attacks on the railroad was that it wasn't really a public utility. It was just a utility in name only.
- Chall: Was this a suit?
- Goldberg: Oh yes, yes. The condemnation power existed under the Central Valley Project Act. One of the things that had gotten into the Central Valley Project Act--and I think this is explained in Montgomery and Clawson's little pamphlet--was a provision that the state could not condemn public utilities outright, but had to replace them in kind.* The railroad was ostensibly a public utility.

What were we going to do about that railroad, to replace whatever it was--seventeen miles of railroad track through the mountains there--used to pull maybe two, three trains a week, if that much, and for this sole customer, Georgia Pacific, the owner of the railroad? I don't know what it would have cost. I know we eventually saved about \$10 million. Let's say it would have cost \$12 million to replace the railroad.

*Mary Montgomery and Marion Clawson, "History of Legislation and Policy Formation of the Central Valley Project," (Berkeley: United States Department of Agriculture, Bureau of Agricultural Economics, 1946).

Goldberg: This was a thorn in everybody's flesh. During the course of investigation, somebody pointed out that the railroad was built across certain sections of the public domain and had a license from the Department of the Interior to use those sections of public domain, but the license had been allowed to lapse in the 1920s and had never been renewed.

These sections of the public domain had been set aside as power reserves, I think, by Theodore Roosevelt. We succeeded to the United States' rights in these sections when we got our federal power license. Since the railroad wasn't licensed to use them any longer, the railroad had its tracks on our land. That gave us the idea: Why should we be condemning something that we already owned?

I used to threaten Schwarzer from time to time--he represented Georgia Pacific--I used to threaten him from time to time, "Some-day we'll send a crew out there and just pull up the tracks on section whatever; you'd better get your locomotives out or you're going to have an awful job getting them down the hill." [chuckles]

Chall: What was the final determination of that case?

Goldberg: Well, it started out to try to force the abandonment of the railroad, before the Interstate Commerce Commission. No luck. No luck. Brought a proceeding in the U.S. District Court to review the action of the Interstate Commerce Commission; regret to say, lost in the U.S. District Court--should have won.

I must have made some mistake in the handling of that case, but anyway, we lost that one. We had a pretty good U.S. Supreme Court case there. I don't think I actually prepared a petition for writ of certiorari, but the case was good enough, with this really fictitious railroad--fictitious public utility--the railroad was real enough, but its public utility status was certainly nothing but nominal. That was obscure enough so that we entered into intensive negotiations and arrived at a contract whereby the railroad agreed to get out, and we agreed to pay them something--I don't remember how much. And they agreed, and this was very important--they agreed to keep the mill at Feather Falls operating, I think, for five years.

That was important to us for a totally collateral reason. That mill up at Feather Falls was the second largest employer in Butte County, and we didn't want to create a situation of creating mass unemployment. So we paid them--I can't recall how much; we got rid of the railroad; we got out of the obligation of building a bridge

Goldberg: which would have been heavy enough to have supported the railroad--instead we built a regular highway bridge--and they agreed to keep the mill going. As far as I know, they complied with their agreement; we complied with ours.

Somebody figured out that by this arrangement, the state had saved some \$10 million, and everybody was very happy.*

Chall: So you settled, in effect, out of court.

Goldberg: Yes, yes. I was particularly pleased with the settlement even though I'd lost the case before the U.S. District Court, because of this unemployment feature. That would have been a serious economic and social problem up there.

Chall: So that was added in later when they negotiated, is that it?

Goldberg: Yes. That was part of the settlement. I think it generally worked out satisfactorily. But what a workout I had on this business of abandoning railroads and trying to work with the Interstate Commerce Commission. If ever a person felt he was wandering around in the great labyrinth of Crete, it was I at the Interstate Commerce Commission. What a mystic maze that was! Oh, I did a lot of work on that railroad. That took a good part of my time, maybe two years--off and on. Sometimes nothing but. Let's see, what else? That's a very poor question--what else?

*Bill Warne and Governor Brown were so happy that they named the bridge after me because it didn't have railroad tracks. Governor Reagan changed the name from "B. Abbott Goldberg Bridge" to the name of the old bridge, "Enterprise Bridge." But on October 6, 1979, the Department of Water Resources honored me by dedicating a handsome bronze plaque at the southeast corner of the bridge memorializing my efforts. My wife says, "That's just like you--getting a bridge named after yourself on a road that doesn't go anywhere." [B.A.G.]

Some Observations on Administrators and Administration Relating
to State Water Issues

- Chall: All right. Then let me ask you something in the what else category. What kind of relationships, or did you have any, as an attorney in the attorney general's office, or as Pat Brown's counsel, with the legislators? For example, would you come in contact much with George Miller, Jr. or Carley Porter or Pauline Davis?
- Goldberg: Oh, yes.
- Chall: Would legislators come in to you with their problems on water or land legislation?
- Goldberg: Yes, they'd come in with their problems, but I was never one for socializing much with them. Brody did much more of that sort of thing than I did. My contacts with the legislature were by and large mostly formal. I didn't develop and really didn't try to develop any close personal relationships over there.
- Chall: With Pat Brown, did you have a close personal tie over the years?
- Goldberg: Yes. With Pat, I had a close personal tie because, after all, I had worked for him since really beginning with his election in 1950, and very closely after he went into office. I really developed an affection for Pat, because whatever one says about him, he was a man of complete good will. He wanted to do what was good for the people of the state of California. Now, it was sometimes a little hard to tell what's good for the people of the state of California, but Pat wanted to be right.
- He was really a highly motivated and highly dedicated man. I think that was the secret of his success. I think that attribute of his personality came across to the public.
- Chall: And did it manifest itself in all of his administrators wanting to get to work and do what was good for the state?
- Goldberg: I don't know about all of his administrators. It certainly was entirely compatible with what Bill Warne did. Bear in mind, I didn't work for any director but Warne. I knew Banks, but I had never worked for him.

My next closest tie in the upper echelons of the administration was Hale Champion. Hale was as politically astute as anybody I have ever encountered, but Hale, too, was motivated in the same

- Goldberg: fashion, so that what he did was--I suppose we could find little interstitial details here and there where there may have been disagreements--but what he did by and large, as I recall it, was always conformable with what Brown would have wanted done.
- Chall: Water problems, especially pollution, overlapped the jurisdiction of the Resources Agency, which Hugo Fisher directed. How did you work with him?
- Goldberg: My present recollection is that I had more of a personal than professional relation with Hugo. I would occasionally help him with a speech or some small problem. But I was so occupied with my own work that Hugo had to get his substantial legal advice elsewhere.
- Chall: Governor Brown was also caught up in the questions of water pollution, particularly that at Lake Tahoe. In the earlier stages of trying to develop some state and bi-state policy on this, the governor appointed you chairman of a committee to review the problem. This was in October, 1963. What do you recall of the Tahoe problem as you reviewed it?
- Goldberg: I do not think I was ever involved in any substantial pollution problem as a legal adviser. Of course, I was aware of the problems pollution could cause as you can see from my references to the Frying Pan-Arkansas Project on the Colorado.
- Chall: I noticed in reading some editions of Western Water News that your plain-spoken opinions, especially about the role of the federal government in state water matters, often incurred the hostility of spokesmen for the water users--Burnham Enerson--for example. How did you react to this and did it affect your work in any way?
- Goldberg: Of course this sort of thing affected my work; it reinforced my feeling of self-righteousness. If Burnham Enerson had ever agreed with me, I would have thought I was wrong. He was a proponent of federal bills that would have made the United States subject to state water laws in such a fashion that the United States would have had to operate its projects in accordance with state law. I took the position that the United States only had to pay for rights that were property within the meaning of the due process clause that were interfered with by project operations but that the operations were to be as federal law provided. This is the Rank v. Krug problem and it ties to the definition of water rights as means of getting rid of the acreage limitation. There was actually a case out of Wyoming to this effect, Owl Creek Irrigation District v. someone, or In re Owl Creek I.D., and the first bill I knew of was sponsored by a Wyoming Senator. It

Goldberg: failed and Senator Kuchel then sponsored a similar bill. I appeared in opposition to the bill and was rewarded with the disapprobation of Senator Kuchel and Burnham Enerson. I was exercised enough by this problem to write an article for the Stanford Law Review, "Interposition Wild West Style," I think in 17 Stanf. L. Rev. I got to the point that any time I heard anyone say "states' rights" I thought they were trying to resurrect John C. Calhoun, keep little black kids out of public schools or, more to my purposes, get their fingers into Uncle Sam's pocket book when the law said they shouldn't. Burnham, I think, prophesied that the West would blow away in dust if we didn't have some sort of western water rights settlement. We have not, but the earth still seems to be revolving once every day.

III IDEALS AND COMMITMENTS IN BRINGING WATER TO LAND

Chall: You were telling me earlier, and I thought we might get this on tape, that water was a very important and pervasive topic during the years, let's say '50 to '66 perhaps--that regardless of which side you were on as an engineer or attorney, there was a deep and strong emotional commitment, a high dedication. Could you explain that?

Goldberg: I don't recall what I said to you before. Let me think about that for a minute and see if I can recapture what we were talking about this morning. I think what I told you about this morning was this: that when I came into this, we were all very highly motivated. These were all what I would call high morale outfits. Everybody was an idealist.

The boys from the Bureau of Reclamation, they're idealists. The fellows from the Division of Water Resources, the group whom I may have described to you as a group of disappointed old men--they were idealists. Now, their ideas may have been somewhat different from those of the Bureau of Reclamation, but these were highly, highly dedicated men.

They had come up and they had transmitted to me, certainly, the tradition of the Old West, that water is the limiting resource and that by bringing water to the thirsty land, you were in effect doing the Lord's work and that there was nothing more important for the people of California than providing an adequate water supply.

As I said, when I told you about Friant Dam and the fish--adequate water supply. We thought in terms of water supply and only very tangentially in terms of other uses of the water--recreational, fishing, et cetera. Of course, the fish at Friant Dam--that was really an academic problem, because if you go back historically, you'll find that the fish runs had been destroyed,

Goldberg: certainly by the 1920s and perhaps before then, by the operations of Miller and Lux. So it was not so much a problem of maintaining a fish run as really reviving one.

Chall: I see.

Goldberg: The economics of these projects was figured in terms of the cost-benefit ratio and the project was sized to get the lowest cost per acre-foot or per kilowat hour; decisions were made accordingly. Indeed, no power plant was installed at Friant because it was figured that the flows would be too irregular to make a power plant financially feasible. Well, you can see that would have left a mighty slim margin for fish.

We had no doubts, really, as to the correctness of our position. Not that efforts were not made to maintain fish life, provide for wildlife and so on, where it was compatible with the project. For example, look at the rather elaborate installation that was put in up at Oroville to provide for the fish in the Feather River, but the Feather River had a real live fish run.

At some point in time, we put a man out in the San Joaquin River to count fish. I remember they built a little structure out there--a couple of boards, and there was a slot between the boards, and this fellow was there all day [chuckles] and he counted the fish! I don't remember the exact figure, but I think in one week he counted seventeen fish or something like that. [laughter]

Chall: You can't say you didn't do your research carefully.

Goldberg: I do know that some of these problems kind of surfaced. I don't know where I got the idea, but someplace along the line, the idea began to dawn on me that really Southern California was an environment essentially hostile to human occupation. [laughs] This was interesting, but what are you going to do about the millions of people already down there?

I do recall, as I said to you this morning--I wish I'd put it in a speech now--but I do remember saying to someone that really, the only solution to the water problem was birth control.

Then, of course, we've had the whole change in thinking. The environmentalists had some impact, but very modest. Actually the environmental impact, the recreational and wildlife and fish uses of these projects, were seized on really by the water users from time to time. Well, if we could allocate some of the costs to

Goldberg: recreation or to environmental protection or what have you, that would cut down the cost of water. But that was their interest. Or, if you could allocate it to flood control.

Chall: Early on, the so-called non-reimbursable cost of fish and game, wildlife, and recreation had to be absorbed by the general fund.

Goldberg: Yes! And as far as I know, that's the situation today, too. The bottom line, as I said to you this morning with regard to Friant Dam, yes, you could have built Friant Dam bigger, but who would pay for it? It was not necessary for the water users. And the bottom line is always, who comes up with the bucks? You have the same thing keeping the Stanislaus a wild river. [talks slowly, thoughtfully puffing on his pipe] Sure, you can keep it a wild river, but you're charging a group of power users more than they would otherwise have to pay. The wild river user is going to pay that difference? Of course, they couldn't.

Chall: Rather expensive way to sail a raft down the stream.

Goldberg: Yes. Another thing. When you talk about environmental impacts, you cannot physically build projects of this magnitude without having an enormous environmental impact. I've even heard such things as the fact that there's been a change in humidity in the southern reaches of the valley because of the extent of irrigation down there. Now it's an environmental impact--whether it's good or bad, I can't say, but it's certainly there. If it's adverse, who is to be held accountable for that?

One of the things that I am disappointed to see is the lack of emphasis on planning that--I think it was initiated by Governor Reagan; I haven't followed whether it was continued by Brown, Jr., but one of the most important parts of water project development is long-range planning.

I once figured out--it's in one of these briefs somewhere--how the construction pattern of these dams followed the unit cost of water. The cheapest one was built first. As a matter of fact, the very best sites were those originally occupied by the power companies, way back around the beginning of the century, which is not due to malevolence on their part, but it's simply a fact of life. If you're going to build a hydro plant, you're going to build the most favorable one first.

The best dam on the Sacramento River was Shasta. Shasta was built first. Then you can go right on down. Oroville--the possibilities there were known way back in the twenties, if not before then. Oroville didn't come on the line until it became financially feasible.

Goldberg: Now these things take a good deal of planning. My feeling is that it's about twenty-five years from planning to construction, when you consider all the financial and political problems that have to be gotten out of the way and that the state has made a great error by de-emphasizing planning. You see, if you want to cut the state budget, it's an easy thing to cut out planning money. You're not going to reap the effects of that until some future generation. You're not going to be around. I think it is a great disservice to cut back on planning funds.

Chall: Do you think the state has done that in the water field?

Goldberg: I'm sure they did it under the Reagan administration. I'm not close enough now to know what has been done under the Brown administration.

Talk about imaginative things such as atomic power. In the state at one time, we considered the construction of an atomic power plant. Right there, you run into a host of problems: Should the state be in the power business? What is the influence of PG&E, Southern California Edison, and so on? The technical problems of the atomic plants--well, [the plant] didn't go through, and the way things have shaped up, maybe they just lucked out on that one.

Chall: That was the power to get it over the Tehachapis.

Goldberg: Yes. I don't know where they're getting their--it doesn't matter where, but by the time the power arrangements were initiated, I had left.

One thing that struck me. Remember the drought year we had--what year was it--last year or the year before? [1976-1977] All this talk of drought. There wasn't a murmur about a shortage of domestic water in Southern California. There also wasn't a murmur about the fact that that shortage didn't exist was due in part, at least, to the State Water Plan. I didn't find anybody beating the doors down to thank us for what had been done.

See, you get it there; once it's there, it's just accepted. The fact that it took some forty years to achieve it was just forgotten.

Chall: Turn on the tap and there it is.

Goldberg: Yes. Well, I'll tell you one other story for the record and then let you go.

Chall: I think we have just enough tape for it.

IV RANK AGAINST KRUG: SOME ADDITIONAL BACKGROUND

Goldberg: Okay. We were involved in the trial of Rank against Krug. The plaintiffs were represented by Claude Rowe of Fresno, of whom Arvin Shaw said, "Oh, he can't be that stupid. He must have somebody helping him." [chuckles] And the United States defendants were represented by Joe McPherson, who was short and fat and just recovering from a heart attack.

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Goldberg: I was tall and kind of gaunt, and I think I was going through one of my bowel problem episodes. Rowe stands up in the courtroom one day and he points across the courtroom at McPherson and me and says, "Here I stand, Little David, assailing those two Goliaths."

I stood up and said, "Judge, that man can't get anything straight, not even his Bible stories. He is Sampson and we are being slain with the jawbone of an ass."

Chall: Oh, dear.

Goldberg: I thought Judge Hall was going to put me in the jug. He was so irate!

Chall: How did you have the nerve to say that in the courtroom?

Goldberg: I don't know. I don't know.

The witness on the stand was a man by the name of Charles Lee, a forensic engineer, and he testified [chuckles] that the more water that went down the river, the greater the rate of seepage into the underground; not the greater the quantity but the greater the rate!

Goldberg: Let's say, if we had a case where the flow was X, you have one percent; when flow is X plus Y, you'd have twenty percent. So not only the quantity increases, but the rate increases.

We had an engineer who said to me, "Ask him how much we have to put down before the river disappears." [laughter]

Well, Charlie Lee was the witness on the stand. He had a daughter who, unfortunately, died young. And he had a daughter who worked in the state library here; she was assistant librarian, as a matter of fact.

I met her on the street one day and she said to me, "That was a terrible thing you said about my father." I said, "What?" She said, "The jawbone of an ass." I said, "I wasn't talking about him; I was talking about Claude Rowe!" [laughter]

Chall: And your point wasn't even well taken. [laughs]

Goldberg: There was another anecdote out of Rank against Krug.

Chall: How many days did you say it was in court?

Goldberg: Two hundred and twenty-five-odd trial days.

Chall: I guess there ought to be some interesting stories.

Goldberg: The witness on the stand was a man by the name of Lee Hill, and he was being examined by Joe McPherson. McPherson asked him some question. Hill answers it. Rowe says to McPherson in a whisper, "I bet you're sorry you asked that." McPherson turns to Rowe and replies, in what was intended to be a whisper, "Horse shit."

They had two court reporters. They say to be a court reporter, you've either got to be a drunk or a moron, though this time we had the lady. She was not a drunk. The transcript comes out. Question: Mr. McPherson. Answer: Mr. Hill. Mr. McPherson: Horse shit.

Judge Hall made us physically return the transcripts and cut that out. [laughter]

I suppose I should tell you about the day we got the writ of prohibition on Judge Hall. It went something like this. Each summer, beginning about 1951, I think, the river had been operated under a consent injunction. That was in '51, '52, and I think this was '53.

Goldberg: Comes '53 and negotiations are started for another consent injunction. By this time, I had been learning a little bit about federal practice and I didn't like the idea of a consent injunction anymore. But my districts were very timorous and afraid that if we didn't have a consent injunction, Judge Hall would require the release of the whole natural flow, which would leave them short of water in the mid-summer.

They pressured me into saying that I would consent to an injunction, too. So a form of injunction is drawn up, and it comes out that Rowe agrees to waive findings of fact and conclusions of law, and the rest of us consent. So I said, "Well, if it's good enough for him to waive findings of fact and conclusions of law, it's good enough for me, too." Judge Hall says, "Well, you said you'd consent." I said, "So did Mr. Rowe. If he can now only waive findings and conclusions, so can we."

Hall says, "If you don't consent, I'll require the release of the full natural flow, and I won't let you waive findings of fact and conclusions, because you would take an appeal."

I couldn't appeal from a consent injunction, but from one that was really jurisdictionally improper on its face, I wouldn't need the findings of fact and conclusions. I could attack that directly. I thought that one over and replied to the effect: "As it were under those circumstances, I have no choice but to consent."

I called up my then-friend, J. Lee Rankin, who was the solicitor-general, told him what had happened. He said, "You better come back here. I think we can get a writ of prohibition on that one." So I went back to Washington intending to stay a day or two. I actually stayed there, I think, six weeks.

We got into this thing. It took a little work to draft it up. Presently I get back to Fresno and I am accompanied now by William Veeder of the Department of Justice. Veeder was a small, wiry man who had been a championship featherweight boxer in college. I want you to get the personality: This is a very, very feisty guy. Veeder had been the principal object of everybody's venom in the Fallbrook case. He is the man who began the Fallbrook case. Veeder and I get back to Fresno. We stop off in San Francisco and we get an order to show cause out of the U.S. Court of Appeals as to why a writ of prohibition should not be granted. That has to be served on Judge Hall.

Goldberg: So, it's early in the morning. I said, "Bill, let's get that order over to the marshall and have the marshall serve it." Bill says no, no, no, he's not going to have the marshall serve it. He says, "You know these country marshalls; they never do anything right, anyway. I'm going to serve it myself."

I said, "Now, we're going to have a bad enough day as it is. Let's not make it worse by getting personally involved." [chuckles] No, he wouldn't listen to me. Finally he did listen to me, but by that time it was so late that we couldn't find the marshall. He was out feeding his prisoners or something. And we had no choice but to serve Hall personally.

I take Veeder into Judge Hall's chambers and Hall looks up. As I say, he really had very little use for me because I kept telling him he had no jurisdiction. [chuckles] He looks at me and says, "Humpf, you're back." I said, "Yes, Judge. And this is Mr. Veeder of the Department of Justice."

Hall says [in a scornful manner], "I've heard of you." Veeder says, "I've heard of you, too. And I have a message for you." He reaches into his inside pocket, pulls out this order to show cause, and slaps it against Hall's chest." He says [slowly and deliberately], "You [pause] are [pause] served."

Chall: What a dramatic confrontation!

Goldberg: Hall takes the order, looks at it, and I thought he was going to have a stroke on the spot. He turned from his usual color to red to about the purple of your blouse. I thought he was going to fall dead in front of our eyes! [chuckles]

Chall: That's rather unusual procedure here.

Goldberg: But he eventually recovered his composure and he says to Veeder, "I have never in my life been the victim of such an act of gross impoliteness," and he proceeds to excoriate Veeder for a while, and then he turns to me.

He says, "And as for you, you fomented this damnable maneuver." But we got the writ and we got rid of those consent injunctions. That was a fair leg up in the eventual success in the Supreme Court.

I always remember that case, and it resulted in one of my favorite quotations. Judge Pope--I don't know whether this was a concurrence or whether it was the actual opinion of the court, or what--but Judge Pope, who was a fine judge on the court of appeals, in analyzing our case said, "I am reduced from the high ground of authority to the low ground of principle." [laughs]

- Chall: You can't say it hasn't been a rather exciting career that you've had. Many interesting cases.
- Goldberg: It was interesting. It was interesting. I hope it's been useful. I sometimes wonder, maybe it would have been better to let California dry up and blow away, and keep it the way we used to know it. Maybe the house we live in should have remained a hop yard instead of being a home.

That's one thing we haven't discussed in planning, to think in terms of water planning. Really, of course, we should think in terms of total environment planning. Should. Of course, we can't do anything about things already built, but should we allow choice agricultural land to be diverted to other uses? Like where we live, the land is so fertile, if we have a barbecue in the back yard and somebody drops a tomato seed, you're liable to find a little plant growing. It's a shame that land of that sort was not kept in agriculture, because certainly we could have lived in the foothills just as well.

- Chall: That needs to be resolved before it's too late.
- Goldberg: And you find the way it was when I left, the resistance to state planning. The boards of supervisors want to keep their authority. How long can we endure that kind of fractionation of land-use planning? I don't know. Lots of problems here. And they don't get any easier as time goes on.
- Chall: Well, that seems to conclude our interview. I do want to thank you for devoting your entire day to the project and for the valuable background on law and administration you've provided for our growing oral history material on water. I wish we could have had more time to devote to the court cases, but you have provided researchers with quite a bit to work with.

Transcriber: Marie Herold
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TAPE GUIDE -- B. Abbott Goldberg

Date of Interview: May 10, 1979

tape 1, side A	1
tape 1, side B	9
tape 2, side A	17
tape 2, side B	27
tape 3, side A	36
tape 3, side B	44
tape 4, side A [side B not recorded]	55

INDEX -- B. Abbott Goldberg

acreage limitation, 18-19. See also specific cases dealing with the issue Arizona v. California, 30-32, 34-35

Barry, Frank J., 21
 Berry, William, Jr., 43
 Boke, Richard, 19
 Bold, Fred, 36
 Brody, Ralph, 38, 48
 Brown, Edmund G., Sr. (Pat), 3, 16, 19, 21, 48
 Burton, Robert, 17, 28

California State

Department of Water Resources, 16, 42
 Water Project Authority, 5-6
 California [State] Water Project, 20-23, 30, 43-47, 54
 litigation relating to, 36-42
 Carter, Oliver, 21
 Central Arizona Project, 4-5, 24-25, 28-30. See also Arizona v. California
 Central Valley Project, 2, 5, 14
 Champion, Hale, 48-49
 Corker, Charles, 34
 Cox, Archibald, 28

Edmonston, A.D., 5
 Ely, Northcutt, 4, 31
 Enersen, Burnham, 4, 49-50
 Engle, Clair, 22

Feather River Project. See California [State] Water Project
 Fisher, Hugo, 49
 Fowler, John, 40-41
 Frankfurter, Felix, 10-12
 Friant Dam, 3, 24, 51, 53
 Frying Pan Arkansas Project, 35

Georgia Pacific, 45-47
 Gerlach case, 26-27
 Gleason, Walter, 4
 Goldberg, B. Abbott
 experiences arguing Ivanhoe case before U.S. Supreme Court, 10-12, 14-16
 philosophy of on water issues, 17-19, 30-31
 Green, Denslow, 12

Hall, Pierson, 25-28, 55, 58
 Harlan, John Marshall, 10
 Hart, Henry, 8-9
 Holsinger, Henry, 5, 6
 Horton, Harry, 4, 6, 11-12, 15, 31

Imperial Irrigation District, 4, 5, 24
Ivanhoe Irrigation District v. McCracken, 2-20

Jones, Benjamin, 6

Kern County Water Agency, 43-44
 Kronick, Stanley, 3

Lee, Charles, 55-56

McPherson, Joseph, 55
 Metropolitan Water District, 30, 40, 43
 Mosk, Stanley, 34-35
 Moskovitz, Adolph, 3, 11, 14-15, 17

Pacific Southwest Water Plan, 34
 planning and environmental concerns, 52-54, 59
 Pope, Judge _____, 58
 Price, Francis, 10-11, 14

Rank v. Krug, 23-30, 55-58
 Rankin, J. Lee, 27, 57
 Reagan, Ronald, 53-54
 Rockwell, Alvin, 4, 12, 16
 Rowe, Claude, 25, 55-57

San Luis Reservoir Joint Service Contract, 20-23, 42
 Shaw, Arvin, 3, 25, 31-32, 55
 Shenk, John W., 13-14
 Stolz, Preble, 11, 40-41
 Straus, Michael (Mike), 5, 19-20

Towner, Porter, 43

Udall, Stewart, 21-22

Veeder, William, 57-58

Warne, William, 33-34, 48

Warren, Earl, 6, 10-12

Weinberger, Caspar, 16, 17

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Ralph M. Brody

DEVISING LEGISLATION AND BUILDING PUBLIC SUPPORT
FOR THE CALIFORNIA WATER PROJECT, 1959-1960;
BRIEF HISTORY OF THE WESTLANDS WATER DISTRICT

An Interview Conducted by
Malca Chall in 1980



RALPH M. BRODY

TABLE OF CONTENTS -- Ralph Brody

INTERVIEW HISTORY	i
BRIEF BIOGRAPHY	iv
I THE STATE WATER PROJECT, 1959-1961	1
Appointment as Special Counsel on Water Problems	1
First Concepts of the State Water Project	6
Overcoming Historical North-South Concerns	11
Moving the Burns-Porter Act Through the Legislature	18
Acreage Limitation as an Issue	22
Assistance and Opposition in Passing the Legislation	24
Appraising the Legislation	31
Developing the Contracting Principles	34
Trying to Convince the People	37
An Historical Perspective on the State Water Project and the Vote on the Proposition	40
The Question of Large Landholdings	46
The Contract with the Metropolitan Water District	49
Agriculture and the Pricing Policy	50
II WESTLANDS WATER DISTRICT, 1961-1977	56
The San Luis Reservoir Contract	56
Evaluation of the California Water Commission	62
Negotiating the First Contracts for Westlands, 1963-1965	67
Congressional Hearings	73
The Administration Recommends Contract Revisions	76
The Question of Evasions of the 160-Acre Limitation Law	79
Relationships	85
Westlands and the Current Debates in Congress, 1979-1980	91
TAPE GUIDE	97
INDEX	98

INTERVIEW HISTORY

By the time Edmund G. (Pat) Brown was inaugurated as governor of California on January 5, 1959, Ralph Brody had agreed to a dual appointment as deputy director of the Department of Water Resources and as the governor's special counsel on water problems.

Brody was certainly very familiar with land and water issues in the United States and California, having been, between 1939 and 1952, on the legal staffs of the United States Department of Agriculture and the Bureau of Reclamation. While the bureau's assistant regional counsel in Sacramento he had been directly involved in contract negotiations for the Central Valley Project. By 1958 he was well established in a private law practice in Sacramento specializing in water and power and was also serving as counsel to the state senate's Joint Committee on Water Problems. So, when the newly elected Governor Brown sought him out and asked him to join his staff to help develop policy for the California Water Project, Brody at first refused. But, intrigued by the challenge and the opportunity to help resolve the divisive water issue which for so many years had had the state embroiled in controversy connected with equity in the distribution and financing of the planned water system, he agreed to join the governor.

Two exceptionally challenging years ensued during which, despite difficult administrative relationships and a legislature and public polarized regarding almost every aspect of the projected water plan, Ralph Brody, along with others, managed to pull together many of the guiding principals, the unique theoretical framework for building and financing the project, and the strategy for getting the Burns-Porter Act through the legislature. That bill laid the basis for the distribution of water from Oroville Dam in the north to Perris Reservoir in the south. It is also accepted as the foundation for the Peripheral Canal, the Drain, and the eventual development of the north coast rivers, about which, some twenty years later, there is controversy so reminiscent of that initial struggle for the Feather River Project during the 1950s. Although Brody gives credit to many others for the successful passage of the water project legislation, he is considered its principal architect.

Following the seven months of intensive work moving SB1106 through the legislature, Brody and others began a year traveling from one end of the state to the other. They talked to editors, businessmen, large and small landowners, and the average dubious citizen to win their votes for the \$1.75 billion bond measure, Proposition 1, on the November 1960 ballot. It did win of course, by a narrow margin.

Now, with the building of the project assured, Brody left the governor's staff but he remained close to the state water project through his appointment in 1961 as chairman of the California Water Commission, a position he held throughout the Brown administration.

But he did not return to his law practice. Instead, at the invitation of the board of the Westlands Water District, he moved to Fresno to assume another major challenge--manager and chief counsel of that 350,000-acre irrigation district preparing plans to receive water from the San Luis Dam and Reservoir, another unit in the federal Central Valley Project.

Here Brody was again on familiar turf, making contacts with Bureau of Reclamation and other Department of Interior personnel, negotiating contracts, meeting with congressmen on behalf of appropriations and contract provisions for the district. He assisted the state in its lengthy and finally successful efforts in 1961 to insure that in the joint construction of the San Luis project, the 160-acre limitation would adhere only in the federal Westlands, but not to those lands served by the state project.

Westlands, however, was a district comprised of many very large land-holdings, far in excess of the 160-acre parcels to which the federally subsidized water was to be allotted by terms of the conditions imposed by the Reclamation Act of 1902. How these holdings were to be broken up, who were to receive the benefits of the land and water were issues which caught the district and Ralph Brody in strong cross-currents between vocal proponents and opponents of enforcement of the 160-acre limitation inside and outside of the Congress, several state and federal administrations, in the courts, and among present and would-be farmers in the Westlands district. It has proved an enduring subject for scholarly journals and for the print and television media.

In 1977, after sixteen years in the district, Ralph Brody retired, ready to defend his record regarding compliance with the acreage limit, to argue the case cogently for new approaches to the question of large land-holdings and the family farm, and to refuse portrayal, coming from some quarters, that he has been a traitor to the principles of the Reclamation Act. Today, he is a consultant to several small water districts in California.

Mr. Brody and I first met on May 9, 1979 in Sacramento, where he was attending a conference on water. Over lunch in the dining room of the large motel we discussed my tentative outline for his upcoming interviews. Interviewing sessions were delayed until January 23 and 24, 1980. During those two days in Fresno we recorded five hours of his well-remembered experiences. We worked, following lunch the first afternoon, in the study of his home, a crackling fire in the fireplace helping to dispel the cold and fog outside. We frequently referred to a folder of background material culled from many sources to help pinpoint many difficult to retain facts. Mr. Brody met me for breakfast the next morning after which we completed the taping in my motel room. Regrettably the noise level prevented my recording our conversations concentrated on the water project during our meals. Mr. Brody had been thinking a great deal about this past history, hoping to set it down as clearly and fully as possible for the benefit of historians.

By December, 1980 he had completed review of his lightly edited transcript and had returned it with addition of a few details and revision of some sentences to insure clarity. At that time, and again, in a subsequent conversation, he indicated concern that he had left out important historical background; that if he had had more time he might have told his story differently--underemphasizing some details and giving more emphasis to others--thus providing additional information on the practical, political, and emotional factors behind the reasons the California Water Project developed as it did.

Despite this concern, in this forthright review of his activities on behalf of the project, his analysis of the California Water Commission, and his brief survey of the background of current state and national debates centering in Westlands, Ralph Brody has offered a vivid picture of the blending of theory, idealism, and pragmatism, and of the years of enjoyment, challenge, and frustration which have characterized his career dealing with land and water issues in California.

Malca Chall
Interviewer-editor

6 May 1981
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I THE CALIFORNIA STATE WATER PROJECT, 1959-61

[Interview 1: January 23, 1980]##

Appointment as Special Counsel on Water Problems

Chall: What I want to find out first is how it was that you got into Governor Brown's administration in 1959. Where were you when he appointed you deputy director of the Department of Water Resources?

Brody: When Pat Brown was elected in 1959, I was nicely ensconced in the practice of law in Sacramento, specializing in water and power law and representing a number of counties in Central, Central Coastal, and Northern California, and a considerable number of water districts as well as private individuals.

I had become acquainted with Pat Brown a number of years before when I was with the Bureau of Reclamation as Assistant Regional Counsel in Sacramento. The issue over acreage limitation in the so-called Ivanhoe case had arisen, and I worked with him, after he had reversed the state's previous position with respect to acreage limitation, and its validity under California law, in the attorney general's opinion, and later on in the litigation which took place. I participated together with others from the Bureau of Reclamation, and with Abbott Goldberg, and with Pat Brown. Then when he was elected governor, he contacted me on a number of occasions (there were three or four different occasions) and asked me to join his staff as special counsel on water matters and as chief deputy director for the Department of Water Resources.

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 97,

Brody: Fundamentally the position of deputy director was given to me merely for salary purposes. He didn't want to pay me out of the governor's office budget if he could avoid it. That was at least the reason he gave me for putting me on the staff there. That was the reason that I had the title of deputy director. However, my real title and function was special counsel to the governor on water problems.

I originally refused the appointment. I had a nice law practice I was happy with and didn't want to leave. The governor is a very persuasive man. He convinced me that as a matter of civic duty, if nothing else, I might make a sacrifice. Certainly there was no advantage to me because I took a considerable cut in income to join his staff. I have always been intrigued by challenge and by controversy.

I might add that prior to that time--and at that time--I was serving as counsel to the Senate Joint Committee on Water Problems which was comprised principally of those who came to be designated as the "river rats." The northern senators predominated on that committee. I worked with that committee for several years--it was not a full-time position--while I had my private practice. I resigned from that when I joined the governor's staff.

Of course, at that time he was flush with the victory in his election and quite expansive. I remember him saying to me, "Ralph, come with me and if we can solve this water problem why I could become president and you could become Secretary of the Interior." I had no faith in the prospect of either of those eventualities occurring and I certainly had no appetite for the bait he held out for my own prospects. I do believe, however, that he was convinced that his own prospects for political advancement to the White House were very good and I must say he was encouraged in that direction by others.

I finally did agree to go with the governor, as I say, because I thought there was a job to be done and not for any reward of office since I told him then and on later occasions, I just wanted to get back to private practice. I felt the challenge was great and I had been embroiled in this north-south controversy already. I felt that it could be worked out and should be worked out in the interest of the state and all the people of the state, so I decided to go with him.

Chall: About when was that, have you any idea?

Brody: It was right after his election. I took over my duties I think in January. Although I did some work before that time. It was rather fast. I mean when I say that he contacted me several times, this

Brody: may have happened over a period of maybe a week or ten days. I'm not talking about a protracted period of time. It was certainly between the date of the election and the date on which he took office.

Chall: So you came in at the very beginning of his administration?

Brody: Yes. Perhaps if I had reflected on it more or over more time I would not have done it because I made a number of sacrifices in doing it that I wish now perhaps that I had not done. Although I'm gratified by the way things turned out in terms of the program. Another--and this is something that I'm not sure that I want to have in the sealed records. Another element was involved, and it has to some extent been gone into in Grody's article.* One of the points that was made to me was that the governor did not think that Harvey Banks was necessarily the man to head up the department. Harvey was described as indecisive and tried to please everybody with the result of accomplishing little as a result of it, although he was popular. But also he was popular in that as an engineer he was a sound engineer and a likeable person. But they did not have confidence in his policy making ability, or his willingness to make policy, or to develop a program that required firm action.

What I was told was that they wanted me to direct the policy of the department; they wanted me to really head up the department, except in engineering matters--Harvey was to handle that. They felt that public acceptance of Harvey was such that it would be undesirable from a political standpoint or strategic standpoint to name me as director of water resources. I didn't want that spot anyhow. But they did want me, they said, to be the decision maker in other than engineering matters. I told them I would not do that unless they cleared it with Harvey, that Harvey was my friend and I was not interested in getting into something where there would be a melee of some kind or to hurt Harvey.

I was told that it would be done. I'm not confident at this point of time that it was ever done because things just didn't work out completely that way. Harvey was not to blame in this regard. It was simply poor administration on the governor's part. A similar

*Harvey P. Grody, "From North to South: the Feather River Project and Other Legislative Water Struggles in the 1950s," Southern California Quarterly, Fall, 1978, p. 296.

Brody: problem existed with respect to others in other departments. He would give nominal authority and then proceed to undercut it. Harvey and I never got into any serious wrangling, but then I could see where Harvey was going off his own way and there was nothing I could do about it really, no matter how I tried. It didn't make for the most facile kind of arrangement for the department or of getting the job done.

Chall: Administratively it would have been very difficult.

Brody: Yes, and I can't blame Harvey for it, but nevertheless I'm not so sure that that's something that I would care to publicize at this particular point of time because it could be embarrassing to Harvey, because of the initial attitude of the governor and his top staff toward Harvey. I think, suffice it to say, that Grody's statement goes about far enough in that direction.

Chall: Pat Brown in his interview with me did say that it was very difficult, the working arrangement between the two of you--Banks and Brody--and at times he would have to try to smooth the waters and tell you both to go ahead and get your work done. But he did feel that it was essential to keep Banks where he was and to have you as his advisor. He knew that it wasn't easy but it was essential for him.

Brody: Well, Brown was right. It was very difficult--the working arrangements between the two of us. But had the governor done what he originally said he was going to do (tell Harvey that I would have a policy role as deputy director) it would have been avoided. I did not want to come into the department and try to develop a program of this type, feeling that I was going to have to be under the supervision of anybody, other than the governor, because that's not the way this kind of thing works. You have to be able to deal with people and make that decision and feel confident that you can go directly to the top man and get an answer, or else feel that you could make the decision and be backed up by the top man. More than that, you could not have two leaders and have each making commitments (some of which might be contrary to each other). But to have to go through someone else--I would not have taken the job had I felt I had to do that. Although once I was there I would not have left if the governor had defined our respective authorities and told me I was to have lesser authority. And I probably would have stayed on the job, frustrating as it was, to try to work in the atmosphere which the poor administrative ability of the governor unnecessarily created.

Chall: So you think it was a matter of the way you were put in rather than the fact that you were there that caused the difficulty?

Brody: No, I think the fact that I was there had--I don't know that there were necessarily difficulties. I was proceeding on the theory that I had the responsibility. Harvey was probably proceeding on the theory that he had the responsibility. Nobody had ever made it clear to Harvey--if it was indeed true--that he didn't have it. So even for the governor to say now that he had to set it straight --he didn't set it straight at any point in time, not even on any given issue.

Pat Brown had weaknesses and one of his weaknesses was that--and I found this to be a difficult thing to work with when I was with him--again this is something that I'm not sure I will--but he would listen to everybody. If somebody wanted to talk to him about the water program, he'd have them come into his office. He'd talk to them. He'd make commitments to them. But I wouldn't know anything about it. Yet he was telling me that it was my responsibility to execute these things or to execute a program and he may be saying things to them that were contrary to what I might be working on. I believe he did the same with Harvey. It made it extremely difficult in that respect. Other people were advising him. He'd never tell me that he was getting advice from anybody else. I'd find out indirectly.

For example, Jim [James] Carr I gather used to see him. One time Bill Warne as director of fish and game was giving advice I found out. Finally I wrote a memorandum to Bill Warne. I said, "Look, Bill"--I had known him for many years--"if you have any advice to give it seems to me it would be appropriate to send it to me before it goes into the governor. Let's get together on it; it should come to me. The governor has given me this responsibility." It was easy for these people to give advice to the governor on isolated matters when they had no responsibility for the total program or problem.

Well, I'm not so sure how that worked, but in any event, those were the kinds of things that were difficult to cope with under the circumstances. But there was to have been--there was supposed to have been--delineation of areas of authority between me and Harvey. But it was never done and there was a promise to me to do it and I was told that it had been done when I took the job. I would not have taken it under the circumstances. There was never any real serious friction between me and Harvey. I became irritated and I'm sure he became irritated at times the way things were going. And I may have complained to the governor. But I was complaining not because of Harvey but because the governor wasn't doing what had been promised, and he interfered with the job.

Chall: Philosophically, though--and I guess we may get into that later when we come to the contract and developing the bond issue, or the legislation itself--were there philosophical differences between you or was it just a difference in methods of working?

Brody: Both. I suppose there were philosophical differences. I can think of one area and that's acreage limitation. I was more supportive of that in principle than Harvey was. In terms of the contract I think, as I look back on it, I may have had the feeling that Harvey would make different promises in different areas to people, and was anxious to be a good guy. But I'm sure that there were other philosophical differences. Right at the moment I can't think of any, but I know darn well that there were.

But what I did finally was to go ahead with the legislation, go ahead and do it as if that were my responsibility and nobody else had anything to do with it, and if they didn't like it they could come to me and ask me about it or talk to me about it, and that's about the way it went.

Chall: You took that over as your area?

Brody: I was told that that was the primary thing. I saw that as something that needed to be done, and I was told that's what had to be done, and I was to do that. But I had no confidence in the fact that when I was told that, that somebody else wasn't told the same thing, because of the way that Harvey's and my situation developed. But I just went ahead and did it, and was firm about it, and more or less succeeded.

First Concepts of the State Water Project

Chall: Now if you came in in early January, can you think back at what stage Brown was in his thinking, at that time, with respect to what ultimately came out as the water plan, the legislation?

Brody: When the governor took office, he had no specific plan conceptually or anything else. He saw the Feather River Project and he saw that what he wanted to do was get water distributed in the state. He wanted to see a water program developed. The first thing he did was to call me and Harvey and others together.

Chall: Do you remember whom the others might have been?

Brody: Well, Fred Dutton was in on it. I might say in going back to this business about the working conditions too. Fred Dutton, to a large extent, I felt, didn't have the background and yet he attempted to control all the activity too. I felt that I was in terms of this kind of thing, the most knowledgeable person there and that, therefore, I shouldn't be interfered with in the way that I was at the time. It was difficult, although there was never anything serious about it. I used to go to Dutton, for example, in terms of channels of communication about Harvey and me and I would complain about things Harvey was doing or not doing. And I am sure he did the same as far as what I was doing was concerned. This was the nature of the problem the governor had created. They agreed: the staff in the governor's office agreed with me, in terms of what was happening as far as Harvey was concerned.

But going back to the governor's concept of the program. There was no physical program that he had in mind at that point in time. What had actually happened was he got Harvey and me together, and I don't recall precisely at this point whether anybody else was present or not. I think probably Dutton was, maybe even Hale Champion or somebody like that--Charlie Johnson.

Chall: [William] Gianelli?

Brody: Gianelli wasn't called in that early. I believe I was the one who got Gianelli involved in this, more or less and more active in it. Gianelli was the only man in the department I felt I could really rely on for assistance. By [saying] "rely on" I meant that I think that Gianelli's thinking went along more with mine in that Gianelli didn't feel as bound to Harvey as the rest of the people in the department might have felt, that's what I mean by that statement.

Chall: Some people have said that Gianelli was a very important factor in the development of the water plan. Someone has said--I think it was a Republican--that Francis Lindsay and his staff, Mr. Gianelli, and other Republicans really had set up the basic thinking on the water project, and laid the basis for Proposition I, but that the Democrats came along and got the credit.

Brody: Well, Gianelli was pretty far down the line in the department at that point of time. No, I can understand people saying that, and people did say, at that point in time, that Republican administrations in terms of [A.D.] Edmonston, and [Edward] Hyatt, and others, and under Warren particularly, had developed a physical plan. The Republicans did develop what were the major engineering elements of the ultimate program. However, the previous administrations had been unable to work out the solutions to the hostilities that had existed between the north and the south for more than twenty years to the extent necessary to put the engineering plans into effect and to provide for the financing of the project.

Brody: The Feather River Project--that was developed earlier. Of course, the state water program was something more than that. But that project was developed earlier and I have no doubt that Gianelli had some major part in the engineering of that, except that he was quite far down the line in the hierarchy of things at that point--even when Brown came to office. Gianelli's big contribution was later when he became director of the Department of Water Resources.

Chall: But did you find him helpful?

Brody: I found him helpful in getting information for me in detail and I'll come to a point later on where you'll see where this occurred. But I felt that I could always rely on Gianelli to get information for me, to assemble data that I needed. I valued his engineering judgments too and other judgments. I think Gianelli had really more of a policy kind of a mind than Harvey did.

I agree with the statement that was made about the Republicans having their own state program. I used to tell the story about the man trying to sell automobiles. The fellow says, "There are three reasons why I won't buy your car." He said, "What are they?" He said, "The first is I have no money." The salesman says, "To hell with the other two." Well, that's exactly what the situation was with the state water program. They had a program. But they couldn't find a way to finance it or to put it across and they couldn't resolve the issues that existed. Its genesis was there previous to the Brown administration and there's no way of denying that.

Chall: Okay, then we'll go back and you can tell me about it. I've interrupted you a couple of times.

Brody: Then what happened was when he had us there together, we agreed that Harvey was to develop a program--an engineering program--to meet the water needs of the state. Harvey came back ultimately with the \$4 billion program. Before this we had never gotten into the mechanics or anything else. A \$4 billion program. And we said, "The people will never approve a \$4 billion water bond issue."

His program was for the ultimate needs of the state which was beyond the year 2020. So we said, "Look, technologies may change. There may be other means of developing water supplies. What we want is for you to select the reasonable point of time in the future--not ultimate--and meet the needs as of that particular point in time, preferably for a project under \$2 billion. But then that is not the criteria. The criteria is to select a reasonable point in time and come up with a project which will meet the needs as of then."

Brody: Harvey then came back, and that's how--you remember in the statement someplace in the material that you have--they talk about the fact that Brody and Brown told him to come back with a project under \$2 billion. Well, we didn't tell him that. We told him instead of going to the ultimate needs of the state to come back with a specific program for funding, for building, which would do what I just described a moment ago.

Harvey came back with a project that was \$2.25 billion and that would have met the needs as of 1985. Now, that's the same program that was adopted. The \$2.25 billion took into account all of the money that had been spent up to that point in time. If you subtract that from the other, you came to \$1.75 billion. That's the bond issue that was the money that was needed to build the project.

I guess it had to be after that when legislation was developed in the governor's office by Charlie Johnson which I can't remember the context of. I don't think it was ever introduced. I'm not sure, but it was out, and it just created a furor. I can't remember what the principal objections were but in any event it was just completely unsatisfactory. As I think about it I believe it called for a general obligation bond issue which implied that everyone in the state would be paying for the project.

At that time, I was physically located in the Department of Water Resources, in the offices with Harvey. I think Johnson prepared the first legislative draft; and that sort of surprised me because I thought that was going to be my function, to prepare the legislation.

Chall: How do you explain Johnson?

Brody: This was further evidence of the problems created by the governor's administrative shortcomings in terms of assuming authority and responsibility. Johnson was a legislative secretary to the governor and whether he was told to do it or whether he did it on his own or whatever it may be, I don't know. But in any event, it did create quite a reaction.

Chall: A reaction among whom?

Brody: Oh, among legislators; among everybody involved. It scared a lot of people for some reason, but I can't remember now why. So I was then asked to move across the street to the governor's suite of offices and start working on the legislation. It was then that I started working on the bond legislation. Let's stop and think a while here. [tape off a few minutes]

Brody: I want to go back to when you asked me what the grounds of the program were. One of the things he emphasized with me--and he emphasized this with me when I was asked to take the job; he emphasized it with me all the time thereafter, and I'm confident that it was a sincere feeling on his part. He felt, and I certainly agree, that water was the most vital element necessary for the then existing economy of the state, and to sustain it, and to develop an economy for the future; that the welfare of the people was critically dependent on the water supplies and we were running short of water; that people were going to be moving into southern California--they were moving into southern California and to California--and you could put signs around the city of Los Angeles or southern California and say, "There's not enough water here and don't move here," and people would still come in.

People move and create the need for water. They follow where water is. As long as you can turn on that tap and see the water coming out, why, people are going to come there and use it. He felt this was a very serious problem and one, which, in addition to being a serious problem, I think--I more than think, I know--that he felt that if he could resolve it, this could put him well on the way to the presidency.

As I stated earlier, there was an interest in the presidency at one point, as you may or may not know. He went back and spoke to the National Press Club and made a big hit back there. I know that he did feel something along that line. But in any event, he had a sincere desire to meet the water needs of the state.

The number one industry in this state was agriculture. He wanted to provide enough water for that. He wanted it because he saw it as necessary for the future growth of the state and to meet the existing needs within given areas. So that was what prompted his strong interest.

To go back now to the matter of the legislation, the question was how you were going to fund these projects. The other thing was to take into account the needs and fears of the various areas of the state. It may be well by way of background to state here most simply that on the one hand, you had the northern part of the state, north of San Francisco, where you had two-thirds of the water and one-third of the land, and south of San Francisco you had one-third of the water and two-thirds of the land. Nature had played a trick on California in that respect, both as to the time of occurrence and the place of occurrence of water. Precipitation for the most part occurs in the winter months and the major need occurs in other months of the year. It also occurs in the northern part of the state whereas the greatest areas of need are in the central and southern parts.

Overcoming Historical North-South Concerns

Brody: At that time, it was estimated there were about 27 million acre-feet of water running off to the ocean of northern California. As I recall the projections, it was estimated that if you took the most favorable projections for northern California as of a hundred years thence, they could only use about 12 or 13 million acre-feet of water in northern California. Therefore, you had about 14 million acre-feet of water which at least was running out to sea, a portion of which should be available--other factors being equal--for use elsewhere. So it was conceded by all that there was water available.

However, northern California was concerned that despite the fact there were county-of-origin statutes, despite the fact there were watershed protection statutes, despite the legislation which existed, that once water went out of northern California to southern California, that if the need ever rose in northern California they never would be able to pull it back.

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Brody: On the other hand, southern California was fearful that if you built a project and southern California committed itself to pay for that project, whether there was water in it or not, that northern California might, at sometime in the future, pull back their water supplies and therefore leave them with the facility for which they had to pay but for which there was no water. So that was a curious kind of fear that existed because on the one hand you had the north fearful that they would not be able to take the water back and the south fearful that they were going to take it back. The question was how you could meet those kinds of fears.

Part of California's fear was also stimulated by the so-called Mallon decision which dealt with tidelands oil revenues in Long Beach, where the state had made a contract with the city for tideland oil revenues and then reneged on the contract. The Supreme Court upheld the action; and the MWD and others were afraid that if they made contracts with the state that those contracts could be changed during the life of the contract. So these were the fears we had to combat.

You had to raise money and the only effective way of raising it was through a bond issue or out of the general fund of the treasury. We knew that if you raised it out of the general fund of the treasury, you would never get a program approved because all of the taxpayers would be fearful that they were going to have to pay for it. If it came out of general funds, they would be paying for it. It would eventually be paid back, but they would be paying for it.

Brody: As I stated, the alternative to the general fund was a bonding procedure. Now, if you had general obligation bonds, that meant that everybody in the state was liable for it. However, we developed a procedure to have a general obligation bond issue, but the project would be required to produce revenues to pay the bonds and the revenues would be pledged to such payment. Thus, there was very little likelihood or possibility of the people of the state as a whole ever having to pay on those bonds.

In any event, the puzzle at that point was how do we develop legislation by which we can fund this? How can we assuage the fears of the north, assuage the fears of the south, and get the money necessary to get the job done? And how do you bring all of these divergent interests together? I considered that to be my task and, as it turned out to be, it largely was.

First, the question of how to overcome the Mallon decision. Certainly a straight general obligation bond issue would not work because that was too fearful a thing for the people of this state to have to consider. We poured over the matter and came upon the provision of the state constitution--whether this was done through discussions with people or whether I did it through research in the constitution I don't recall at this particular point in time--but the thought developed that we could use the article of the constitution providing that, when approved by a majority vote of the people, a debt (in this instance it would be a bond issue) may be authorized by the legislature and incurred in excess of the dollar limitation contained in the constitution. That meant that you had to have a vote on this \$1.75 billion.

It further stated, in the constitution, that the statute authorizing the debt might prescribe the ways and means by which the money was going to be arranged to pay off that debt, in principal and interest, and that during the existence of the debt, the legislature cannot change those. Well, that immediately seemed to me, if we could satisfy the people with it, would take away the sting of the Mallon decision.

So we developed the bond legislation, at least in this aspect, to provide that you would authorize a bond issue, which was the debt that we're talking about here, that there would be contracts with the water users that the revenues from the contracts would be dedicated to the payment of the bond and the operation and maintenance of the project (the cost of the project). By so doing, you made a contract with the water users, you made a contract with the bond holders--it wasn't expressed but the bond itself was the contract--that could not be changed during the life of the debt. Ultimately, that satisfied southern California insofar as that particular issue was concerned.

Now the question was how do you solve the problem of the fears of the north, that they wouldn't be able to get the water back, and the fears of the south that the north might take it back? We were going

Brody: to use tidelands oil revenues as is well known. We had a bond issue for \$1.75 billion which was enough to build the facilities of the project that would provide the water necessary to be exported, also some--well, we'll come to that.

We had also provided some money for some projects in the north, which would go to satisfy in part the need of the north, to eliminate the necessity for pulling back more water. But we also--I claim credit for this concept--we said, "We're using tidelands oil revenues. There's \$1.75 billion in the bond authorization itself. Therefore, if our cost estimates are right, if you use tidelands oil revenues, then you don't need all those bonds for these initial facilities. So we'll say that to the extent that we use tidelands oil revenues for the construction of facilities for the main system, that we'll set aside the bonds to be used to construct facilities necessary to meet the needs of the north, or to augment supplies of water in the Delta for export." This meant that when the time came to exercise the county-of-origin rights, you'd have money available, either to replace the water in the north for water that is being taken out, or to replace the water in the canal for what the north was pulling out.

Chall: That's that so-called offset feature.

Brody: Yes, set aside or offset. Now, I have had some concern in recent years that the emphasis has been placed on augmenting supplies in the Delta to go beyond what the legislation intended. Bear in mind, we're talking about the 1985 demands in the south. But [today] they talk about using (and I think they have used) some of those set-aside funds, not to make up for deficiencies caused by exercise of the county-of-origin rights, but rather to go beyond the year 1985 in meeting demands --to enlarge the yield of the project rather than to meet these deficiencies. It wasn't part of the insurance program.

Chall: Were they offset to build beyond 1985? You say they weren't.

Brody: I say they weren't intended to when we drafted them. You see, what it did say was, and it came along as an afterthought (in effect, this was what was intended to be said, whether it was done artfully and successfully enough is another question), we said, "You're going to build these projects either to augment supplies in the Delta for export or to build projects in the north essentially for the purpose of meeting these deficiencies created by county-of-origin needs." But there was something added in it that said, "If when you do that you have a surplus of water, then you can send that out of the Delta in addition to the 1985 demand." Do you see what I mean?

Chall: This may be a figure that you can't pull out, but the 1985 or thereabout demand was going to be for the whole four million acre-feet of water, but the whole four million acre-feet of water couldn't come just from

Chall: from the Feather River Project, could it? It had to come from the areas like the Eel River and maybe the Mad, the Van Deuzen. Those are all written in that material that you have there. It's not spelled out but indicated that we would have to go up there to the north coast and get the water.

Brody: Ultimately, but not as a part of the \$1.75 billion.

Chall: But as a part of the four million acre-feet of water.

Brody: I could be wrong on that but I don't recall that now because as I understood it, the facilities which were being funded here would provide the yield necessary to meet the 1985 demand. Now I've forgotten whether it was 2.2 or what. I think it was only 2.2. I think the four million was that original \$4 billion project. I'm not positive. I believe the four million acre-feet figure included the federal San Luis demand.

Chall: I'll have to check back then.

Brody: Now, the four million may have been the ultimate figure which we embodied in all the works covered by the Burns-Porter Act. But don't forget, only a part of them were funded in the Burns-Porter Act. You see, the water resource development system, as distinguished from the state water facilities--I think that may have been the four million--the 1985 demand was to be met by the state water facilities which I think was 2.2; approximately 1.1 million to go north and 1.1 million to go south.

Chall: I think so, but I've always been a little unclear (I'll have to go back and check the records) as to whether or not the Burns-Porter Act envisioned, in setting up the contracts, that ultimately southern California and all of the major contractors would be in the system for four million acre-feet, and that if we can't build those other projects within the next number of years, then the state will be defaulting on its contracts.

Brody: No. I'd almost swear to the fact that is not the case. What happened was that we wanted to provide the vehicle, first of all, to fund the state water facilities which I think yielded only 2.4 or 2.2 (something like that), but that we also didn't want to have to go back to the legislature for additional authorization only for financing, for the facilities necessary to complete the state water development system which was broader than the 1985 demand. The state water facilities only take care of the 1985 demand; the funding was only for that, and to provide the assurances that were necessary in order to get these people together. It was not to provide funding to go beyond that 1985 demand. There was certainly no assurance to give to anybody that there's going to be any more water ever to come out of that project on the basis of those facilities, on the basis of that funding.

Brody: As a matter of fact, I was very upset about one thing that did happen. Do you remember that shortly before the bond election the Charles T. Main Report was completed? It said that they were short of funds by about \$300 million. This Charles T. Main Report--this was the first time I had ever seen any reference to it. If you go back and look at all those speeches that were made by Schultz, and by Banks, and by me, and by the governor, and if you look at the presentations made to the committees, they're always talking about 1985 demand. But the Charles T. Main Report talked about meeting the 1990 demand. That's the first time I or, as I understand it, the governor had ever heard of the 1990 demand. So I was so incensed by that that I got hold of Bill Gianelli.

It was obvious that the department had increased that capacity. I said, "I want to know the difference in cost between meeting the 1985 demand and the 1990 demand." I still have in my possession a longhand memorandum from Bill Gianelli that said to me that the difference in cost was \$287 million which is the difference between the Charles T. Main Report and our cost figures. Somewhere along the line, the department had increased that capacity to meet the 1990 demand.

Chall: You didn't have enough money for it and it created a lot of fuss?

Brody: It sure did. Well, I mean they ultimately built it to that, I guess. That was one of the problems that existed.

Chall: Just the casual use of dates and figures?

Brody: Well, no, it wasn't casual. That was the plan, 1985.

Chall: Twenty-twenty [the year 2020] was also bruited about for a number of years, wasn't it?

Brody: Twenty-twenty was bruited about until the time that the governor told them in two weeks to decide on the 1985 demand. You remember I mentioned earlier that the 2020 demand was just too remote. Technologies would change maybe, as they did change.

Chall: Yes, they have. So that took care of the Charles T. Main Report except that it would have been difficult for you now to go around explaining the difference.

Brody: That's right, and also I think that it was not the right thing to do, particularly without discussing it with the governor.

Chall: I forget whether it was the Charles T. Main Report that recommended that you not build the Oroville Dam [in the first stage of the project]. Was that it?

Brody: Yes. That's another reason why--I keep going back again. We talked about why the governor was interested, what he thought about the program. He was very concerned about flood control up in that area too and that's the reason he would never have consented to eliminating or reducing capacity at Oroville.

Chall: You're giving me some background that I haven't read anywhere else. You researched and found the way to develop the bond issue was through the statute, through a majority vote in the legislature and a majority vote of the electorate on the bond issue. This was considered a unique approach, something that hadn't been thought of before.

Brody: In order to meet the objections that were being made.

Chall: It satisfied other needs too, with the South Bay Aqueduct, the North Bay Aqueduct. We haven't come to Davis-Grunsky yet but that's part of it. The investment fund commitment--that's the tidelands oil revenue plan.

Did you advise the governor to commit himself, in that January [January 22, 1959] speech to the legislature and then ultimately again and again, that all of the investment fund money would go into water resources? He made that commitment in his speeches.

Brody: Well, that was something evolved. I mean I undoubtedly urged him to put it into that speech. The concept grew. I think there was a common philosophy there that what you were developing by means of one resource should be used to develop another.

Chall: But ultimately that was not done. Some of that money was put into the field of education within a few years. That also changed the funding available to put into the offset program.

Brody: You see, that's another thing. One of the struggles we went through in the legislature was that we originally provided unequivocally for that to go in there. Then we had to compromise and say, "It goes in there unless in a given year the legislature elects to take some of it out."

Chall: I noticed that that was a change. There we are then with most of the blocks in place in terms of the legislation, initially.

Brody: [laughs] This is a thing I wrote here for the Western Water News.*

Chall: Oh, that's excellent. That's the best thing I have found. It's so clear.

Brody: I'd like to keep this and make a copy of it because I don't have one. I do have a file here.

*"The Proposed Water Development Program in California," Supplement to Western Water News, 11:9, September, 1959, pp. A-D.

Brody: I think it might be well to go through some of these things in this article.* [paraphrasing] The north wanted that the possible effect of the Mallon decision would be overridden to protect the water contracts; that the bond authorization be a sufficient amount to cover the entire sum necessary to complete the Feather River facilities notwithstanding the fact that other funds might be available for construction purposes--for example, tidelands oil revenues. They wanted to make sure that if they did not get tidelands oil revenues there would be sufficient funds, and that was done. (Although the fund was invaded to some extent by Davis-Grunsky.) [continues to read] That facilities for which the bond money is to be spent were to be described in the bond legislation--which we did do.

The north wanted that there be no constitutional amendment and we didn't have one; that the watershed protection and county-of-origin statutes not be modified or changed, and we didn't do that. We kept the commitment. [continuing]

That funds be made available for construction of projects to serve the north--and that was Davis-Grunsky and others; and that the Feather River facilities and the funds made available therefor should not be a single shot deal, and that funds be assured for construction of additional water storage to augment supplies of water in the Delta for export. Well, that was what I mentioned to you a little while ago.

Chall: That's right, the offset. Okay, now I guess the next problem you had then was to get it through the legislature?

Brody: Strangely enough, let me say that the greatest influence (this is going to sound sort of fishy coming from me) that the people who had the greatest impact on me and the governor at that time in terms of meeting the demands of the north--because they were the most persuasive and the most emphatic--were people from this area and people who are now in Westlands or were. J.E. O'Neill, Russell Giffen, and some of these other people were concerned about protecting the interests of the north. It was because of them that we finally developed the concept of the set-aside funds. That's strange. I never could really understand why they had that major interest, but they did. I remember J.E. O'Neill coming to Sacramento and sitting in the governor's office and insisting that this be done before we could get support out of the San Joaquin Valley, from most people, for the water bond issue.

*Ralph M. Brody, "Essential Provisions of the Bond Act," in Supplement to Western Water News, September 1959, p. A.

Chall: Is that because it assured them the water--

Brody: No, because they were part of the export area, too.

Chall: It didn't have anything to do with San Luis?

Brody: No. Well, San Luis was going to be a part of this but I don't think that it gave them any advantage in that regard. No, they wanted to see a solution. I think that was probably the reason. They wanted the San Luis Project, but they wanted to see a solution. They were distrustful of the south and so they were leaning in the direction of the north, I guess. That's about the only way I can describe it.

Chall: I guess some of them were afraid the Metropolitan Water District would just go off and get the water for itself.

Brody: Yes, and underlying this whole thing, all the way along as far as agricultural communities were concerned, was the fact that they felt that in the last analysis you're going to let fields go thirsty before you let people go thirsty and if they wanted to take the water away, they were going to take it away from agriculture.

Moving the Burns-Porter Act Through the Legislature

Chall: At the time that you were developing this, and you had to get that bill through the legislature, perhaps we should discuss the reason for selecting [Hugh] Burns and [Carley] Porter to help carry that act. Whose judgment was that, do you think, and how much weight did it have, utilizing them, or their names--Burns and Porter--in getting that through the legislature?

Brody: It was more than just their names. Carley Porter was chairman of the water committee in the assembly. Hugh Burns was presiding officer of the senate, plus the fact he was so well thought of throughout the state, and he came from an area where it was in between. So his name, and his position, and the esteem--all those things affected that. Porter was active and interested and able.

I think as I look back on it that Porter particularly was the logical man to select. He was chairman of the water committee. If he's willing to support this program or he could be persuaded to support it, then he's the logical man to have. Burns was not that apparent as a possible sponsor. You had to think about it. Porter was from the south. You wanted to get somebody north of the

Brody: Tehachapis. Maybe the preference would have been to get somebody even farther north if they could have. But we needed his prestige, plus his physical location among other things, and as it turned out it was an excellent suggestion.

Chall: Was he helpful?

Brody: Yes, Hugh Burns was very helpful, although Hugh Burns left it up to the experts and [pause] I think Hugh Burns had confidence in me as far as this thing was concerned. I don't know. It's just a feeling I have had. Maybe I enlarge my own importance in this thing, magnify it in my own mind, but I think that is true to a large extent. I think he was influenced in that thinking partly because of J.E. O'Neill and some of these people who ultimately asked me to come down here. I had been working with them in the valley on other matters. Well, on this north-south issue one time when I was in private practice; they had seen me when I was with the Bureau of Reclamation. So I think that that was partly it, too.

Carley Porter had confidence in me because we had a good personal relationship over the years that had developed when he was with the committee before I took this assignment. So, I don't know, that's the best I can say about that process.

Chall: Somewhere I had read that Hugh Burns sort of held out on his affirmative vote for the bill.

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Chall: You don't know whether he was--

Brody: I don't recall him ever being after any particular substantive provision of the bill other than those things which would have concerned his own constituency here, such as J.E. O'Neill and others and they got those. That was relatively early on.

Chall: What kind would they be?

Brody: Well, I'm saying about this business about the offset funds. Don't forget also that Burns had more of a relationship and a closeness with the so-called "river rats"--he was closer to the people in the north than he was with southern California.

Chall: Grody makes a point of the fact that it was a very wise decision to go into the senate first with the bill.* Do you recall discussions about the strategy?

*Grody, "From North to South," p. 298.

- Brody: Yes, we felt that there was more strength in the senate. [pause] I'm trying to remember now. Let me think about that. [further pause] No, I think that it was the other way around. I think that they felt that if they got it through the senate, there was more likelihood of getting it passed in the assembly than it was the other way around. So they felt that the main battles would be fought out in the senate and then if we could stick to that (which we ultimately did) then we had more chance, tactically, of being successful.
- Chall: So that was done by just thinking it through in terms of strategy?
- Brody: Well, I'm trying to remember now whether there were two separate bills introduced originally, one in the assembly and one in the senate, and they were combined in the form of the Burns-Porter Act.
- Chall: I can tell you that. From reading Grody, it would seem as if it were just one.
- Brody: I'm not sure. I think from his article it sounded like just one; but that may be something he didn't catch. I don't know.
- Chall: One of the bills--there were a couple--that went through the assembly while SB1106 was going through the senate was Bruce Allen's bill on the use of the tidelands oil money investment fund. But I'm sure that there was no offset feature in his bill.
- Brody: There wasn't. That was put into the 1106 at the time.
- Chall: So you just used that as a jumping off point then, revising it, amending it?
- Brody: Do you mean his bill?
- Chall: Yes.
- Brody: No. His bill dedicated funds to water resource development, as I recall. Was that the essence of his bill? You see our bill said that with respect to the funds that you use for water resource development, you're going to offset bonds.
- Chall: Now, his bill was just called the California Water Fund Bill.
- Brody: Didn't that merely put tidelands oil revenues in this special fund for water resource development? It didn't authorize any construction. That merely set up the fund as a separate fund in the state treasury and was dedicated to water resource development. Now, the water bond act said that you must use a special amount of money from that

Brody: fund and use it for these facilities, and if you use it for these facilities then you'd have to set aside the bonds to insure the availability of funds to build added facilities needed to meet county-of-origin needs or deficiencies.

Chall: And pay it back with interest?

Brody: As I recall, yes. The Water Bond Act dedicated the funds to these particular facilities. They had already been dedicated to water resource development. That's as nearly as I can reconstruct it.

Chall: In the end Bruce Allen did not go along with the act at all. In fact, I think he argued against it even during the Proposition I period.

Brody: I don't recall now why he did. Partly I think it was political. I remember when we went in on the final day of debate in the assembly, on every member's desk was a reprint of an article or gossip column from one of the papers that said that Brody was out to get Harvey Banks' job. [chuckles] He had it put on everybody's desk.

Chall: Who put that on everybody's desk, Bruce Allen?

Brody: Bruce Allen distributed it, yes. I didn't want Harvey's job and certainly Harvey knew it and didn't believe the story. He knew how unhappy I was with the way the governor had manipulated us. I remember I'd be so disgusted, and I'd go into Pat Brown's office to tell him to take the job and chuck it, and I'd walk out. You know, Pat Brown was the kind of man--and is the kind of man--that wants to be liked. He's like the kid who wants to be a good boy. Not for political reasons, he just wants people to like him. He had a way with him in that respect. I remember going into his office with that expressed intention of mine, and I'd walk out without having mentioned it, and feeling guilty for having thought about it.

But the important thing is that I remember he used to say to me, "Ralph, what do you want? Do you want a judgeship?" I said, "Look, I didn't ask to come with you and I didn't ask for anything when I came. All I want is to get back to private practice." But he couldn't understand somebody who didn't want something. But I didn't want the directorship of the Department of Water Resources or anything else. I wanted to get out of there. I wasn't particularly happy anyhow. [laughs] I enjoyed the actual work; I really loved it. I shouldn't say that.

Chall: It must have been challenging. Did you have anything to do with the appointment of [William] Warne?

Brody: To this job? The original appointment, to fish and game, yes, when he first came in. I suggested him as--or early--I can't remember what program--I forgot when it was. I suggested him as director of Water Resources when Brown was considering not reappointing Harvey and asked me for names. I suggested Bill Warne as a man that would be good on the governor's staff; and he turned out to be so.

Acreage Limitation as an Issue

Chall: There were attempts to defeat the bill or revise it by putting in the 160-acre limits and various other matters that were successfully sidelined. Do you recall working with anyone? Virgil O'Sullivan and those "rats?"

Brody: Yes, now that you mention Virgil O'Sullivan. He wanted the federal acreage limitations imposed. But you see before that--I can't remember the chronology in advance--but as I recall the San Luis Authorization Act came up before the Water Bond Act was passed. At the time of the San Luis authorization (bear in mind now that that's a partnership act; there's a federal and a state portion of it), at that time [George] Ballis and Paul Taylor and all of these people were saying, that by virtue of the fact that it was a partnership arrangement that the federal acreage limitation was applicable to the state service area.

Well, I just didn't see that from a legal standpoint and I didn't think that it should be that way. If there was going to be an acreage limitation it should be state-imposed. Because of the fact that they are in partnership is no different than if the state had built its own project and the federal government had built its own project. The federal government had no more right to tell the state that it had to have acreage limitation than the state had the right to tell the federal government that it should not have.

Secondly, the original basis was--and this partly goes back to my philosophy about limitation--there was supposed to be no subsidy in the state project. There being no subsidy and no interest-free money I didn't see the justification for acreage limitation in the state project. But in any event, certainly federal limitations should not apply. So we fought that out in the Congress. As a matter of fact, there's a letter in the transcript of the hearing in the San Luis authorization from Governor Brown to the chairman of the House committee, saying, "I intend after the project is authorized,

Brody: to develop and present to the legislature legislation which would prevent unjust enrichment and limit farm size." This was never done, not even by his son who used to spout off about this a lot.

But at the time we were discussing it originally, I had no concept there was any subsidy involved in the state project. When it came time to debate this thing, I was strongly of the view that there was no justification for acreage limitation as long as there was no subsidy in this bill. Afterwards it developed that--and I'm not sure but what the legislation of Virgil O'Sullivan we are talking about was not subsequent to the passage of the bill. They wanted a special bill on it. I'm not sure of this. But in any event, when this topic did come up, it was pointed out that in the early years of the project, rates for water would be reduced by virtue of the fact that there would be a sale of power which could be used for that purpose. So it was at that point I said, "If that's the case, then we should have a surcharge, either an acreage limitation or a surcharge, so that the excess landowner would have to pay the full cost of water if he wanted it for his excess land." That was made a part of the contracting principles and that was a part of the contract.

Chall: Yes, that couple of dollars.

Brody: Two or three dollars which represented the value of the power, at least I was told by Harvey that's the way they computed it--as to what that value was. So it was on that basis that we imposed that surcharge. That was only supposed to be for a couple of years but I understand it's been continuing and I don't know whether they're enforcing that or not.

Chall: I don't know. There really isn't much electricity. It's being used to send the water over the Tehachapis, I believe. So I'm not sure that even exists anymore. I don't think that it was ever--

Brody: It was not ever expected to be a permanent subsidy, no. Oh, no. It was just in the early years. But you see today, if you look at it though, if the present Governor Brown thinks that acreage limitation (as he says he did), is something that is good for the country, and it's good to break up large landholdings--there are many more large landholdings, and the real conglomerates, in the state service area, not in the federal service area. There are no conglomerates in Westlands. The conglomerates are down south--Tenneco and the others. But if he believes in that as a matter of principle, maybe he ought to be suggesting programs to the legislature to encourage the breaking up of large holdings. You don't have to do it through interest-free money. It it's desirable to break up the

Brody: large landholdings, if he believes in the principle of small farms, then he should be entertaining programs in his own state service area before he starts complaining about the federal service area.

But it's strange to me (this is an aside), that since he got on the campaign trail, there's been legislation pending in Washington to change acreage limitation, and despite the fact that the governor took all the trouble to come down to Fresno to testify on federal acreage limitation when Westlands was being attacked a couple of years ago, despite the fact that he felt it was important enough for him to come down here, personally, and testify, not a word has come from him in terms of what changes should be made in acreage limitation; not one word has been said as to whether what was being suggested was good, bad, or indifferent, or whether anything should be done at all. Now, if this weren't another one of his changes in position, which he should also indicate if it is, then he should be back to testify, or somebody from his office should be, and making suggestions. But that's the hypocrisy that you see there.

Assistance and Opposition in Passing the Legislation

Chall: I'm picking up information from other sources; I wonder if you remember whether other members of the senate gave you assistance during the passage of this act?

Brody: Oh, I'm sure there were.

Chall: Do you remember [Joseph] Rattigan, [Albert] Rodda--

Brody: Rattigan did. No, Rodda was--

Chall: He was new.

Brody: I think he was trying to decide which way to go. But Rattigan did. Who was the guy that ultimately became a judge in the far northern part of the state? [pauses to recall] The far northern county--did he come from Eureka? I think it was [Carl L.] Christensen.

Chall: Oh, way up there. Well, I can find that out in one of the legislative handbooks. Another one who helped in the senate at that time?

Brody: Yes, and then ultimately Luther Gibson helped. But I'm trying to think of the guy in the north who switched positions. There were two senators--

Chall: [Eugene] McAteer, was he--

Brody: No, there's an interesting event which occurred with respect to McAteer. We touched on it in Grody's article, but [he] didn't tell the complete story. What happened was, McAteer was originally leaning in the direction of the "river rats." If you remember, they locked in the senate; maybe they weren't locked in at this particular point in time; ultimately they did.

Chall: Over this bill?

Brody: Yes, I think so. As I remember, that's what happened.

Chall: Oh, really? I know it took a couple of days--

Brody: In any event, the governor wanted to get McAteer's vote so he called me on the telephone. I was on the senate floor. He called me on the telephone and he said, "I want you to get Gene to come up to my office." I got hold of McAteer and he said he couldn't leave the floor at that time. So the governor said, "Get him on the telephone. We need that vote." So I went to McAteer and I said, "The governor wants to talk to you on phone." McAteer said, "I'm busy at this time." I said, "The governor is on the phone." I grabbed him by the arm and I virtually pulled him up to the telephone! The governor starts talking to him. They were very close personal friends, as well as Gene owed a lot to the governor. Finally, in that conversation he committed himself. But I almost had to drag McAteer up to the telephone to get him to talk to the governor because he didn't want to be confronted. [laughter]

I'm trying to think who was in the senate at that time. I don't know when Ed Regan switched over as he did.

Chall: Was he opposed most of the time?

Brody: Yes, but I think that he--

Chall: Switched?

Brody: Let's see, coming down the line, [Edward C.] Johnson of Marysville gave quite a bit of help. [pause] Of course, in the south Hugo Fisher. It's difficult for me to remember now.

Chall: That's all right. What about J. Howard Williams?

Brody: I can't remember much about Howard on this thing.

Chall: He was the head of--

Brody: Water committee, yes, and I knew Howard pretty well. I think Howard went along mostly with Hugh Burns. But don't forget that while he was chairman, George Miller and some of these others dominated that group. Ed Regan was vice chairman, wasn't he? But before the senate vote on this thing--before the senate committee vote--we bargained with George Miller and finally got his--well, we supported finally his Delta protection statute and he then was going to interpose no objection to the Water Bond Act. But after he got his water bond legislation, he double crossed us on the thing and continued to oppose.

Chall: What was his legislation? It wasn't in the bond act, was it?

Brody: No, no it was a separate bill. It was called Delta protection statute.

Chall: Was he a difficult person to work with?

Brody: George Miller was a bright man and when you dealt with him on an individual basis, you could deal with him. You get him in a forum and he was blustery and bullying, somewhat demagogic. I had always got along with him.

One of the reasons that I think that the governor hired me and I think one of the reasons that I have been reasonably successful on controversial issues is that I can be firm about what I want, but I can understand and respect the other party. Don't forget that when I was with the Bureau of Reclamation, the issues were just as great then on other subjects--for example, the Army Corps of Engineers versus the bureau, the flood control issue, acreage limitation--a number of items were just as volatile at that time.

When I first came to California I started negotiations with the Contra Costa County Water District. I remember that after the first couple of meetings I got word from Washington that the commissioner of reclamation had been called by counsel for the Contra Costa County Water District who said he had been instructed by the board of directors there to call the commissioner and say that he wanted to compliment the commissioner on Ralph Brody because he had smoothed over what had been theretofore, for a period of years, a highly difficult situation. I've always had the ability--until very recently, I'm afraid! [chuckles]--to work with people, to disagree with people, and at the same time be able to have their respect and they knew how I worked.

Brody: I've always followed my own maxim--in terms of negotiating with people and dealing with people in controversy--that I would always say what I would have to have. I would say that I have to have this and I'd point out the disadvantages to the other side. But I would put the complete picture on the table. I think I gained respect of other people by doing that. They knew that I wasn't asking for more in order to get something less. They knew that I understood what their position was and what their interests were, and I would ask only for what I had to have. I've been able to resolve controversy in practically every place I've been by doing that kind of thing, by being firm, and just being respectful, and regarding the position of the other party. I think that's another reason why Brown wanted me on this job.

Chall: When you were working in the senate and again in the assembly and allowed to sit on the floor with Harvey Banks--the two of you--can you describe that kind of a scene? How did you get there? How did you get the privilege?

Brody: It requires special consent. But first it occurred in the senate and since Hugh Burns was presiding officer of the senate, we didn't have any difficulty getting it. Since he had set the pattern, it wasn't difficult to do over there in the assembly. But the pattern was that they were introducing these amendments, or they were presenting these amendments for introduction. We'd have to look over these amendments and look up at Burns and say yes or no. You had to decide right on-- We knew what these guys were aiming at. We knew that most of these amendments were intended to be destructive. So it wasn't as difficult as it might sound. We knew we had to have essentially what we--we had made a deal with the north and the south. We knew what we had to have in order to make this thing work if it were going to work at all. We couldn't afford to yield up on a lot of these points.

Chall: You had your votes counted anyway?

Brody: Yes, but there were a lot of holdouts and undecideds.

Chall: You never were sure?

Brody: We never were sure.

Chall: It was close, of course.

Brody: It was very close. We felt that we were reaching a point where a lot of them couldn't afford to go against their own constituency. That's where the partisanship had to disappear because this was a very important issue for the people in the south. They couldn't afford to have partisan politics.

Brody: One of the strongest people, and one for whom I have the greatest respect and admiration, and a man who ultimately lost out as a result of it on a partisanship basis, was Norrie [Norris] Poulson, the mayor of Los Angeles. The man was a tremendous help. I don't think we would have gotten the south or gotten the Metropolitan Water District without him. Yet the Republicans were so sore at him after the thing passed that they virtually ran him out of the party.

Chall: Is that right?

Brody: That was one of the most harsh things--oh, yes. When he was in Congress I had no regard for Poulson at all. But over the years he developed, he changed. I came to be very, very fond of him. He was on the water commission with me after that. I don't know whether he's still alive. I feel badly that I haven't been in touch with him. But there's a man that really believed that this was good for the state and good for his area. He fought for it despite the fact it was an unpopular issue when he undertook it.

Chall: Yes, I guess it was in Grody that I read that Brown had credited him.

Brody: Oh, he deserves tremendous credit. I think that he was as instrumental in getting this thing through as the governor was.

Chall: That's the legislation and Proposition 1?

Brody: Yes, yes. Because, you see, he was the only person in the south that would stand up to Joe Jensen. He threatened to fire Joe Jensen. He had the power to do it.

Chall: Oh, really?

Brody: Yes.

Chall: [laughs] I didn't know anybody could do that. That's interesting.

Brody: I think Joe Jensen may have challenged him to do it but--

Chall: But it could have been done?

Brody: You researched it and hadn't found that?

Chall: Let me check and see what else I've got here. [pause] We talked about George Miller, who was one of your opponents in the senate. What about Pauline Davis, who never came around in support of the bill, although the Davis-Grunsky Act was a significant part of SB1106?

Brody: You see, Pauline Davis and to some extent Randy [Randolph] Collier were interested in two things, small projects that were needed then in the north-- Well, let's start in a little different fashion here. My basic belief is that the "river rats" so-called were really not that worried about the program. They were much like, I think, Senator [Henry] Scoop Jackson is about exporting water out to the northwest. That to a politician, unless he can point to some specific benefit to be gained on a particular piece of legislation for his own area--by specific benefit I mean that if it means taking something out of their area, unless it gives them a specific benefit--the only thing they can do in terms of getting some political gain on this thing is to oppose it and say we're protecting the interest of our area here.

So I have a feeling that a lot of the objections that were raised were raised simply because they wanted to show what they were doing for their own area. If they said, "Well, we're going to approve this. I can take this water here without raising any fuss, without trying to get something out of it for us, then people are going to think we're not doing a job for them."

Chall: But even when he did get--George Miller--when he did get his bill, the Delta Protection Act, it still didn't--

Brody: I'm saying that the mere act of opposing and fighting is a benefit to the politician as such, not necessarily to his area but to him. I think a lot of that influenced--I think that influenced George Miller a lot and I think it may have influenced a lot of others. But there were also those who felt that there were tangible gains to be developed too and I think that Randy Collier and that Pauline Davis were two of them. She, as you probably know, was a darn good fighter and she really represented her area. So she wanted the small projects to be assured, and to get funding for them, and in addition she was attracted by the idea of the kind of protection that we gave in the set-aside funds. So with that in mind then came the Davis-Grunsky Act. Well, we set aside the money in the bond act and the Davis-Grunsky Act was one that provided the execution of the program.

Chall: Do you have any recollection of how the whole concept of Davis-Grunsky came? Was that historically just in the wind?

Brody: No, I think it developed. Well, there were two things. One is obviously you needed to get some more support out of the north which essentially had to provide the funds necessary for this thing. The second thing is that it was recognized that at the same time water was necessary in the south, water was also necessary in the north, and in the San Joaquin Valley, and that the multi-purpose projects we were putting in through export were not necessarily

Brody: those which would--I mean you needed other kinds of local projects, higher up or wherever it may be, to provide the water for the areas in the north, the county of origin. So it was a necessary step in the logical water resource development program to do that.

Now, whether all of the projects which ultimately came out as a result of Davis-Grunsky--the funds which were set aside for Davis-Grunsky--what was it, \$50 million?

Chall: It was \$130 million.

Brody: These were largely thought of as to be those necessary to meet the needs of the north. As I remember it now, a bulk of those funds went to a lot of projects outside the north. I was always disappointed that so much of the money was spent outside of the northern part of the state.

Chall: Well, there it was; the money could be taken advantage of for specific kinds of projects. I don't know that it defined it as the north's.

Brody: No, it didn't but that was the purpose. As a matter of fact, I couldn't at the time conceive of small projects any place else. I thought that was the only place we could spend the money. For example, they used it to construct distribution systems, as I recall, and even for distribution systems for federal water in some areas. I'm not sure, but I think so. Well, to me that violates the purpose of the provision. Somebody is at the door. [tape interruption]

I think it would be important to go back and do a history of major water resource development in this state since the thirties, since the Depression, or during the Depression, because there is so much to be told in terms of that and it is important.

Chall: Well, our office has been in existence since 1954. They have been doing interviews on state water for many years and I think some of them go back into the period of the thirties.

Brody: But that overlooks the fact that water resource development was not considered a state function, it was viewed as a federal function. I think one of the reasons why we're getting poor legislation, for what people think of as corrective legislation, is the fact that people don't know what actually transpired, what went into the original basis of these things. This is why I think only a small number of us are the last of the people who are familiar with what happened in the development of the contracts. I developed all of the contracts in the Central Valley Project, or most of the initial ones, on the east side. The whole concept of how they contracted was largely mine there also.

Brody: So much phony stuff can come out and of course be history too, because people who go back and try to reconstruct--I don't say they do it deliberately--but I think they try to reconstruct and they develop what they think history should have been or history as they interpret it.

Chall: This certainly should be a concern of historians and legislators--to understand the roots of water legislation, and get it down accurately. Maybe you should try to do that.

Appraising the Legislation

Chall: If you have anything more to say on the legislation, we can do that now, if something comes to mind. Otherwise, we might move on.

Brody: I'm trying to think of something else that might be said about the legislation. [pause] I was about to praise the legislation. But I think conceptually and mechanically the legislation turned out to be ideal for the situation and for what was wanted to be done and what could be done. I don't know of any better vehicle that would have been developed to accomplish what we wanted to accomplish. I think it still is good for the purpose. [pause]

There was one thing that was lacking, now that I think about it. One of the things that always troubled me was--you see, when I first undertook this, when I was thinking about this in my mind--before Johnson even got his bill drafted--I was thinking that maybe we ought to draft a body like reclamation law, a body of law to cover this thing. I felt that we ought to have a statute governing the contract, the method of contracting, the policy envisioned, instead of a broad policy for the state, how the program should be executed--whether they were going to have acreage limitation or not--many other facets of the thing in terms of power and public preference and all these other things. Well, it didn't come out that way.

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Brody: If you go back in the history of the Bureau of Reclamation, at one time, despite the fact that the reclamation law was enacted with a highly noble purpose, ultimately it became, in the early years of the program, something that was really an engineer's plaything, in that dams were being built and projects were being built more with the idea that, well, these were monuments to the engineering profession. It wasn't a question of what they would do for people. I felt that you needed these other things in the law in order to say what you

Brody: want to accomplish in terms of public good and public benefit, and not to be merely a vehicle for putting a lot of steel and concrete together. This is what I had had in mind originally.

Out of necessity it didn't turn out that way--the time element and everything else. Fundamentally what happened was that we had gotten the mechanics for getting the thing built there. We settled some policy questions, but not many, with the result that when it came time for the contract, we ran into a barrage of problems.

Chall: Of course, that was one of the great criticisms--among the criticisms --that you were handing the governor and the state a blank check and that no policies had been set. I guess that did prove to be difficult; I suppose it would have been just as difficult to get any policy matters through the legislature.

Brody: Yes. As I look back on it now, I don't think we would have succeeded if we had done that because we would have been fighting over policies still. You know, one of the things that Pat Brown used to say in his speeches [laughs]--one of his typical Brownisms--was that it's better to have problems with water than problems without water. Well, I put that in one of his original speeches and he liked it.

Chall: That's a great slogan. How about his speeches? Of course, we have the copy of the one to the legislature. I think it was about January 20, at the beginning of his term, when he really outlined the major ideas of this water legislation that was coming through. Is that something that you worked on?

Brody: Yes.

Chall: So that really developed the whole plan. You had it in mind by that time.

Brody: I had a plan in mind by it was still pretty general.

Chall: It was general but it was coming to a head.

Brody: Yes, we were actually talking more about principle there than we did in the legislation itself.

Chall: That's why I was concerned about when you came in, just so that I could see how his thinking had developed. Now, in terms of the bill itself, Pat Brown told me that when the Burns-Porter Act passed the senate, there were some imperfections in the bill that were discovered later. I asked him what kind and he said he couldn't remember what they were--"maybe Ralph or Abbott [Goldberg] would remember." He couldn't remember whether they were legal or technical imperfections;

Chall: but they were, he said, in the act itself. There were some things, he said, that you all would have liked to have cleared up but when it went over to the assembly, you passed it intact; you didn't want to change one syllable in it.

Brody: I have a vague recollection of that but I don't remember specifically what they were.

Chall: He said also that he jammed this bill through with all the power of a governor with a million vote plurality--"I just gave it everything I had." So I guess you all felt the need to get that thing through.

Brody: We knew that if we did not get it early on we wouldn't get it.

Chall: Still, it took a lot of time and a lot of maneuvering from when it first went in until July, I guess, when it was finally signed.

Brody: Yes. We were working day and night on it. But I don't recall Abbott as having much of a part to play in this thing at that point.

Chall: No, I don't think he did, but I think that Governor Brown just probably felt maybe he would remember something. I don't know why.

Brody: I can't remember what the technical--

Chall: Right before the bill was signed, and immediately after, there appeared articles in the San Francisco Chronicle, and the Democrat, and there were statements by Bruce Allen, Samuel B. Morris, and others on various aspects of the bill, indicating concern that the bill left out policy questions, particularly in the matter of pricing and rates. I'll let you see the article by Morris.*

Brody: [pauses to read the article] Well, what he was talking about was something that was always the intention, that was always the assurance that had been made, that is that taxpayers in the state as a whole were not going to be expected to pay any cost of the project.

Now, Sam Morris is one of the most supportive of the group there. But southern California was always--maybe it was because they couldn't be trusted, that they didn't trust anybody else. But they always

*Samuel B. Morris, "Comments on the California Water Plan: Financing and Repayments of State Water Projects," Western Water News, 11:9, September 1959, p. 3.

Brody: wanted to have things in writing. For the state to declare something as a matter of policy wasn't enough for them. So they wanted an official declaration that each area would be paying its own share of the cost plus interest. They were afraid they would be asked to subsidize the agricultural areas. To some extent, some thought was given to that at one time but it never prevailed. As the out-growth of comments like-- See, the Met was yelling for a formal contract before the election. We said, "That's not possible; you can't work that out." So finally we agreed that we'd issue a set of contracting principles to cover the kinds of things like Sam Morris was raising and others.

Then the problem was, internally, getting that thing out. If my memory serves me correctly, I finally drafted them myself and sent them over to the department and said, "Look, this is what they're going to be unless you can show some reasons for change."

Developing the Contracting Principles

Chall: The contracting principles?

Brody: I think that was what it was. I don't know what else it could have been. I remember this event. I got it back and there was nothing, no change, so we issued them as they stood. Do you have a set of them?

Chall: I'll tell you what I have in terms of contracting principles.
[tape interruption] We're talking now about Skinner's--*

Brody: No, I'm talking now about the contracting principles. Southern California wanted to know the principles on which contracts would be executed. They really wanted a formal contract but that was not possible because we said we'd have to have a framework, we couldn't commit ourselves to everything that was going into a contract. But we did agree to provide a set of contracting principles, those major items which would govern what went into the contract. As I say, we tried for some time to get it out of the department, unsuccessfully. So I finally undertook to draft something and send it to the

*Robert A. Skinner, "First Contracts for Feather River Water Become Effective: A Summary of the State Service Contracts," Western Water News, 13:10, October 1961, pp. 1-3.

Brody: department and said, "What changes to you want to make?", and they came back and I don't think there was any other than maybe a minor rhetorical change. So we went ahead.

Now, about that same time the governor was going to go on the air and make a speech about this very matter and finally, I think we got the response, or finally we got these drafted, the night before he was supposed to make the speech. We sat up all night working on the speech for him to give on television the next day. I don't have for you the content of those principles but I would suggest that you'd want to get them or the speech that the governor made.

Chall: You think that was very close to the time of the election?

Brody: Oh, yes.

Chall: Well, I'm sure that I haven't seen them.

Brody: Is there nothing in that file I gave back to you?

Chall: [goes through papers] I don't think this is it, but again I think this is a prototype contract. I'll check that out. I think that's different. There may be something here.

Brody: Harvey should have a copy of that.

Chall: I'm sure that I can get it out of archives.

Brody: I think it's important that you do. The Met wasn't entirely happy with that, but it placated them to a large extent so that I think that finally we got the vote out of the board of directors to support the project.

Chall: Did I give you a copy of this from Aqueduct on how the Met finally came around to accepting this contract? They claimed it took ten months before they got--[pause]*

Brody: I guess they did sign a contract before the election?

Chall: Yes.

*Fiftieth Anniversary: Metropolitan Water District," Aqueduct, 46:1, pp. 58-64.

Brody: I had forgotten about that. Well, then when did we get out the contracting principles?

Chall: Here is a speech that Governor Brown made on the radio and television January 20, 1960. That would be just about the beginning of the campaign and I have copied pages four to six, which I think are the primary statements regarding the water project.

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Chall: Here he is discussing the question of unjust enrichment and the power price differential. And he goes on to say, "Tomorrow, therefore, I shall release in Sacramento a detailed statement of contract principles recommended by the Department of Water Resources and approved by me."

Brody: [reads] "The statement will cover such basic matters as assurances of continuing supplies of water to all contracting agencies, water rate estimates, and a number of other provisions. The people of the state of California will then have a comprehensive picture of what we are going to ask them to approve in November. I shall therefore not call a special session of the legislature on the water program." So it was issued on--

Chall: January 21, then. That's January 20.

Brody: I think this is the speech we sat up all night to write.

Chall: When you say "we," who were the we?

Brody: Fred Dutton, Hale Champion, and myself.

Chall: And Brown?

Brody: No. [laughter] Brown never did get much into the details of the legislation. I am not certain how much of it he knows to this day. He knew he wanted a program and would use all of his political power to get it, but I don't think he ever really knew more than a general knowledge of the physical and financial problems involved and certainly very little about how to solve them. He did know it would take political power to get any program through and he was prepared to and did use it, and successfully. As for the development of the program itself, this occurred more in spite of rather than because of him as an administrator.

Chall: Now, in this 1960 Metropolitan Water District prototype contract, that's not the principles?*

*Skinner, "A Summary of State Service Contracts."

These principles will establish the framework and terms under which the state will negotiate water delivery contracts with local agencies. Obviously minor details of contracts which may be peculiar to given districts cannot be included in these principles.

The policy to be established on power marketing and acreage limitation is included in a single statement of principle. Because of the fact that the project, under full operation, will consume more power than it will produce, power will be sold at market value in order to reduce the cost of water. The value of the power will be determined by the difference between the actual cost of producing it and what it will bring on the open market.

This value, estimated at between two and three dollars per acre-foot, will be applied to reduce the cost of water for all purposes, agricultural, municipal and industrial, except for use on land in excess of 160 acres (320 acres in the case of community property). Water will be furnished to lands in excess of 160 acres but the price will be the cost of delivering the water, including pricing of necessary power at its market value.

All water in and above the Delta will be sold at the same price, which will reflect the capital costs and operation and maintenance costs of works constructed in and north of the Delta. Water exported from the Delta will reflect the Delta price plus each area's proportionate share of capital costs and operation and maintenance costs of transportation facilities (aqueducts, pumping plants, etc.)

In the event of a shortage the water supply will be prorated among all export contractors.

Provision is made for the accumulation of funds to finance additional storage facilities to insure a continuity of supply of water for local needs and for export from the Delta in the event area of origin statutes are exercised and to provide for increased demands.

The State Department of Water Resources will proceed immediately to negotiate water delivery contracts, based upon these principles, with local agencies. Local agencies will be required to sign contracts guaranteeing recovery by the state of at least 75 per cent of the cost of transportation facilities necessary to furnish water to them before construction financed wholly or partly from sale of bonds will be initiated.

The state will make every effort to encourage the formation of comprehensive contracting agencies in order to insure that project benefits are spread as widely as possible and also in the interest of guaranteeing a sound market for project water.

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CONTRACTING PRINCIPLES
FOR
WATER SERVICE CONTRACTS
UNDER
THE CALIFORNIA WATER RESOURCES
DEVELOPMENT SYSTEM
January 20, 1960

36c

1. Cost allocations shall be on the separable costs-remaining benefits basis for multipurpose facilities and on a proportionate use basis by areas for water transportation facilities.

2. For purposes of project commodity pricing, costs will be allocated among water supply, flood control, recreation, enhancement of fish and wildlife, drainage, quality control, and such other functions as may be authorized and performed by the particular facility or facilities under consideration.

3. Rates for water and power and for other reimbursable items will be established so as to return to the State all costs of project operation, maintenance and replacement, all principal and interest on (1) bonds, (2) expenditures from the California Water Fund, and (3) other monies used in the construction of the project works. Those costs declared by the Legislature to be non-reimbursable and the federal contributions for flood control and for other items will not be included in the rate structure.

4. The project will require more power for pumping purposes than it will produce. Power required in the operation of the project must be paid for by the water users whether it is obtained from project or non-project sources. Therefore, the costs of the project facilities producing the power is properly a cost of water supply and in the project cost allocation no separate allocation of the capital costs of power facilities will

be made. The capital cost of power will be included in the costs allocated to water supply. The difference between the actual cost of power, that is, the amount necessary to repay the capital and operation and maintenance costs of the power facilities, and the market value of the power provides an economic benefit. A cost allocation study will be made with reference to power facilities for the purpose of determining the economic benefit to be derived from the use of project power for project purposes.

In addition, to the extent that from time to time any power is available for sale, it will be sold at its market value. Preference will be given to public agencies in such sale as required under existing law. The difference between the actual cost and the market value of such power will result in income to reduce project costs. This added income (power credit) will be applied, and the computed economic benefit will be made available, to reduce the cost of project water except for water used on land in single ownership in excess of 160 acres (320 acres in the case of community property).

5. Under the Delta Pooling Concept, there will be a single price for state project water at the Delta and for state project service areas above the Delta which will be referred to as the Delta Water Rate. The Delta Water Rate will consist of an annual (1) capital cost component, (2) necessary minimum operation, maintenance and replacement component; and (3) an operation and maintenance component which will vary with the amounts of water furnished.

The Delta Water Rate will be based on the cost of construction and the cost of operation, maintenance and replacement of these conservation facilities allocated to water supply upstream from and within the Delta. The capital cost component and the minimum maintenance and replacement component will be collected irrespective of the amount of water furnished. The operation and maintenance component will be collected from the contractors receiving water in proportion to the amount of water furnished. Increases and decreases in the capital cost component of the Delta Water Rate will be made from time to time to reflect the then outstanding unpaid reimbursable cost incurred in the construction of facilities necessary to make water available at the Delta.

6. Those contracting for water from a project aqueduct will pay, in addition to the Delta Water Rate, a charge herein referred to as the "Transportation Rate." The Transportation Rate will consist of an annual (1) capital cost component, (2) necessary minimum maintenance and replacement component, and (3) maintenance and operation component which will vary with the amount of water furnished.

The capital cost component, and the minimum maintenance and replacement component will be allocated to service areas by reaches of aqueduct, using the proportionate use method of cost allocation and will be collected annually irrespective of the amount of water furnished. The maintenance and operation component which varies with the quantity of water delivered will be computed for the same reaches of aqueduct as used for the other components of the Transportation Rate and will be allocated among, and collected annually from, the contractors receiving water in proportion to the amounts of water received. Provision will be made for reserve funds to be used for the purpose of meeting large, unforeseen cost of operation and maintenance, repair and replacement of works.

The total annual charge to project water contractors will be the sum of the Transportation Rate plus the Delta Water Rate.

7. The following is a breakdown of the Delta Water Rate and the Transportation Rate. The Transportation Rate is stated for reaches of the aqueducts where the rate will be set by reaches. These rates are based upon estimated costs. Provision will be made in the contracts for revision of the rates when actual costs become known:

Areas of Water Service by Aqueduct Reaches	Estimated Operation and Maintenance Costs Plus the Delta Water Rate, in Dollars per Acre-Foot	Estimated Annual Capital Cost Component*, in Dollars
1. Areas within and upstream from Delta (Delta Water Rate)	\$ 3.50**	--
2. Entire North Bay Aqueduct to terminus in Marin County	7.50	\$1,440,000
3. Entire South Bay Aqueduct (includes cost of possible future extension to Airpoint Reservoir in Santa Clara County if later found necessary)	13.00	1,910,000
4. Pacheco Pass Tunnel Aqueduct	14.00	980,000
<u>San Joaquin Valley</u>		
5. San Luis Reservoir to Avenal Gap	11.50	330,000
6. Avenal Gap to Buena Vista Lake	11.50	4,700,000
7. Buena Vista Lake to Wheeler Ridge	13.00	2,610,000
8. Wheeler Ridge to Tehachapi Tunnel	18.50	560,000
<u>Coastal Aqueduct</u>		
9. San Joaquin Valley east of Devils Den	14.00	1,580,000
10. San Joaquin Valley west of Devils Den	19.00	1,070,000
11. In San Luis Obispo and Santa Barbara Counties	22.00	4,420,000
<u>West Branch Aqueduct in Southern California</u>		
12. Entire service area	25.00	24,530,000
<u>East Branch Aqueduct in Southern California</u>		
13. Tehachapi Tunnel to Pearblossom	32.00	1,910,000
14. Pearblossom to Perris Reservoir	35.50	22,580,000

* Average annual payment necessary to repay, with interest, the portion of the aqueduct system capital cost allocated to each service area, based on a 50-year pay-out period.

** Delta Water Rate shown includes capital cost component for conservation facilities within and above Delta. Power credit has been deducted.

8. Contracts for dependable water supply shall be for at least 50-year terms, but shall contain provision for changes in rates and operating provisions. Upon expiration of the term of the contract, the contracting agency shall have the option of continued service on terms and conditions prescribed by the State, but at no greater cost than would have been the case had the original contract continued in effect. Should the terms and conditions provide for the furnishing of such continuing water service for only a specified period of years, the contracting agency shall have a like right to continued service at the expiration of such succeeding term during which it was receiving project water.

9. To insure continuity and dependability of water supplies the contracts will provide:

(a) That contracts for dependable water supply will aggregate no more than a stated amount based upon the yield of the project. This amount, which will be approximately 4,000,000 acre-feet annually, is to be increased by the yield due to added storage facilities when and as constructed. In addition, contracts may be executed for interim or nondependable water supply subject to reduction or termination by the State at any time.

(b) For the furnishing of stated maximum annual amounts of project water. The time and rate of furnishing of water delivery during any year by the State will be pursuant to schedules and amendments thereof submitted by the contracting agency for such year. The State will comply with such schedules

consistent with its delivery ability taking into account all such schedules submitted by agencies entitled under contract to a dependable project water supply.

(c) That in the event of a shortage in the dependable project supply available in any year for export, project water will be prorated among all export contractors. Each contracting agency will receive an amount of water which bears the same relationship to the available supply, computed on the same basis as the project yield studies, that the amount called for in the agency's contract for a particular year bears to the total amount of water required to be delivered pursuant to all contracts in the respective year. However, the Department will reserve the right to prorate on some other basis if required to meet necessary demands for domestic supply, fire prevention, or sanitation in the respective year or season.

(d) That bond funds will be used to construct added storage facilities and related facilities for local needs to meet commitments to export from the Delta to the extent that California Water Fund monies are used for construction of the original facilities and to the extent such added construction is required by virtue of a reduction, occasioned by operation of area of origin statutes, in the amount of water available for export. This will be subject to the proviso, however, that to the extent that the Director at any time after 1985 finds that any such funds are not then required to meet such reduction and will not be required for such purpose within the next succeeding 10 years, any such funds may be used for the construction of added

storage facilities to meet increased demands for export to or from the Delta and to meet local needs.

(e) That the State will plan the availability of water from the Delta so that deliveries can be made at the time and in the amounts scheduled in the contracts. To the extent possible, five years notice shall be given of any reduction in deliveries which will occur as a result of operation of area of origin statutes.

10. Construction of any transportation facility financed wholly or in part through the sale of bonds, will not be started unless water service contracts have been executed which will insure recovery of at least 75 per cent of the cost of such facility.

11. Local contracting agencies may make funds available for construction or completion of construction of initial or ultimate facilities and will be credited to the extent of such contributions.

12. As a general policy, contracts for project water will be executed with public agencies having the taxing, assessment or equivalent power and all other powers required in order to comply with the terms of the contract. Contracts will be executed with others not having the taxing, assessment or equivalent power only when the State can be provided with security sufficient to insure that the obligations incurred will be paid.

13. Each contracting agency will agree that, in the event in any year it is unable or fails through other means to raise the funds necessary in any year to pay to the State the sum required under the contract, it will use its taxing or assessment power to raise such sum.

Brody: No.

Chall: So it's something else.

Brody: That had to come after the principles.

Chall: All right. Then all during 1960 (this was January when the principles are enunciated), from that time until November you had to fight on two sides. One was to get out there and get the vote, and the other was to persuade the Metropolitan Water District to sign a prototype contract. In this folder that I gave you [brief chronology of the campaign for Proposition I] you can see what you were doing here. Do you want to look that over or just give me some of your recollections?

Brody: I would like to look it over, although not right at the moment.

Trying to Convince the People

Brody: The one thing that stands out in my mind--

Chall: Yes, what were you doing?

Brody: Well, among other things, the governor and I and Harvey Banks were calling on all the newspaper editors and their staffs. I'll never forget going to the San Francisco Chronicle and sitting there with the editorial staff and Scott Newhall. We were halfway through our presentation and Scott Newhall got up and walked out of the room saying, "I don't care how good the program is. I don't want to see any water go south of San Francisco--period." Now here is a man who is publishing a paper in a city that is dependent on the economy of the entire state. I was so irritated by that when I got back to Sacramento, I had some research done (probably by Bill Gianelli, I'm not sure, or through Bill), as to the number of jobs in San Francisco that were dependent on the economy of the San Joaquin Valley and southern California, and it came to 169,000 jobs, as I remember the figure.

I was always preaching up and down the valley in terms of speeches I was making of the interdependence of the various areas of the state with each other. Northern California wanting to secede, in a sense, but they needed the tax base of southern California. Southern California needed markets for their products, and the wood, and the timber, and everything else necessary for building that came out of northern California. It just didn't make sense to see these two areas fighting each other when in reality they needed each other.

Brody: I think that's true between the Northwest and the Southwest. I once had a study made when we were talking about getting water out of the state of Oregon. There are more car loadings going out of Oregon and Washington into California than there are to any other place in the union, and yet these people isolated themselves.

Anyhow, we were calling on these various people, making speeches and generally trying to convince people of the worthwhile nature of the program--two or three speeches a day, meetings at night. It was a mad sort of thing, but interesting, and fun.

Chall: Did you rely a great deal on this statewide water development committee with Thomas Mellon?

Brody: Oh, yes, Tom Mellon, Preston Hotchkis, and Ed Day were all people who contributed greatly to this and they really believed in it. Oh, one of the things that I neglected to mention was that early on in the development of the legislation, because we knew we were going to have a bonding program and what it meant to the state, we appointed a bonding committee of private citizens consisting of representatives of banks, and bond outfits, and bond counsel to advise with us as we went along on this thing. I remember Alan Brown, vice president of Bank of America, and George Herrington, the prominent San Francisco bond attorney being very attracted and very helpful.

One of the things we were concerned about initially was whether the bond market could absorb \$1.75 billion of California bonds. We found that California was very favorably situated in the bond market and that the bonding capacity in California was tremendous as contrasted with the number of bonds outstanding, even taking into account local bonds in the state. So it wasn't anything that was going to be a drain on the bonding capacity of the state or the growth of the state.

Chall: That was one of the arguments that was used by Bruce Allen and others --that you couldn't afford to do this.

Brody: Yes, but it just was not true. And the other thing was that we wanted to be in a position of assuring that the beneficiaries of the project would pay for it and not anybody else and this we succeeded in doing. The thing was we had to convince the public in these speeches that that was the case, and by a somewhat slim margin we did convince them.

Chall: But that slim margin--it's hard to say--may have depended on getting that contract signed by the Metropolitan Water District.

Brody: I have always thought that was overestimated. I think that getting the approval of the board was important, but I think the project would have sold to the people. I think where we carried the election was in central and northern California. That's where people felt it was a project essentially for southern California, why should they support it?

Chall: That's right, and I don't think they did very much.

Brody: No, they didn't, but whatever votes we got there were enough to put us over.

Chall: There was always some concern that if the Metropolitan Water District didn't sign that contract, then the opposition would say, "Nobody will buy this water."

Brody: Yes, and if they didn't sign the contract, people would be fearful that the cost of the project would fall back on the taxpayers. However, we provided in the acts that construction would not start until at least a certain percentage of the water had been contracted for it.

Chall: Did you have anything to do with any background work with the Metropolitan Water District? Were you able to deal with them or did Governor Brown and Harvey Banks deal with them?

Brody: I dealt a lot with them, but Harvey did most of it on the contract. I think a number of those people--Joe Jensen, some of the others, [W.C.] Farquhar, Warren Butler, I've forgotten who else. Joe Jensen used to be very, very candid with me and so was Farquhar. Actually, there's a man who is no longer living who was an attorney in Riverside, Jim Kreiger, who was Farquhar's son-in-law. We got in a heated debate one time in public and it was really tough. I always felt he was working against the best interests of his own people on the thing. I had a feeling that he was somewhat political about the thing.

Anyhow, afterwards I went up to him and sort of apologized, saying we had both sort of lost our heads. But after that, Farquhar became quite friendly with me and so did Kreiger. No, I worked with the Met and all of these groups. Well, people have told me in the San Joaquin Valley that if it had not been for me the San Joaquin Valley would not have gone for it. This is true of people in northern California up around the Redding area. Most of my clients, when I was in private practice, were in northern California north of Sacramento--the districts I represented. I had some in the coastal area and a few down here. But they believed me and they knew I would tell them what I thought was against their interests and what was for their interests.

Chall: I think I had you looking at that [anniversary] booklet that came out for the Metropolitan Water District, just to see if you can use this as a take-off point. I'd like to have you do that.
[tape interruption; telephone rings]

An Historical Perspective on the State Water Project and the Vote on Proposition 1

Brody: I think it's important to note that recorded history has a way of creating the impression, to some extent in the historian, but certainly in the reader of history or the listener that there's a continuity, a continuum, that takes place. That really isn't factual, particularly in a program such as the development of the state water program, and the development of the legislation, and getting it approved. You didn't see one problem and then resolve that and go on to another problem. Or in drafting the legislation do a similar kind of thing.

What happened was that you saw the broad program and you tried-- you put a sort of skeleton together. Then you tried, within that framework, to detect its flaws and see what filling in needed to be done. But a problem might develop in a given area of the state with respect to a portion of the thing at the same time another problem develops someplace else. Or you may have a period of time elapse between individual problems being raised. The whole process took a relatively, very surprisingly short period of time between the assumption of the office by the governor and the ultimate approval of the program and the development of the contracts. But even though that occurred rapidly, a lot of things took place and went off in a lot of different directions from time to time. It resulted from meetings of give and take, compromises, dealing with one area and then another, and finally satisfying to the best you could, what they were concerned about. But in any event, I want to dispel the notion of some kind of real continuity or logical sequences developing there, because it wasn't done at all.

I also want to mention that many, many people played a role in this. I don't think any one individual ever did the complete job. I know that in the drafting of the legislation, there were many people who contributed to that. But there was one man in particular who never did get enough credit for it. But a man who worked with me almost constantly was a man named Gilmore Tillman, who was the counsel for the Los Angeles Department of Water and Power. Gilmore Tillman was a brilliant man, particularly in the field of bonding law; he had a considerable amount of experience. He was a part of

Brody: the city attorney's office of the city of Los Angeles but was assigned to the Department of Water and Power and had been with them for a number of years--a very, very able attorney, a very brilliant man. To me, he provided immeasurable assistance in developing the concepts, particularly in the bonding phases of the legislation. He had a knowledge of water and water law that was invaluable. Since I mentioned the L.A. Department of Water and Power, I want to point out that in the last analysis that department was a very potent force in this whole picture and perhaps as important in many respects as the Metropolitan Water District, but less vocal.

Chall: The Metropolitan Water District was important in what way?

Brody: The Metropolitan Water District covered a larger territory, but the L.A. Department of Water and Power embraced a lot of people--the city of Los Angeles specifically. It had a kind of relationship with the Metropolitan Water District, as a part of that district, so it had votes on that board, but then no more than anybody else. But the people they represented were numerous.

Chall: It was important to get their approval.

Brody: That's right.

Chall: Did you get their approval early, do you recall?

Brody: Well, I don't think it was early on, but we got it before we got the Met's approval.

Chall: Oh, yes, you got everything before then.

Brody: Quite a while before then. There was another man who I think deserves mention who was on the board of commissioners of the L.A. Department of Water and Power and that was a man named Nate Friedman. In southern California, in addition to the L.A. Department of Water and Power, another very important force was the water resource committee or water committee of the Los Angeles Chamber of Commerce. They worked fairly closely with the Metropolitan Water District but after the Department of Water and Power, as I recall, approved the project then it was not too long after that that they--the chamber committee--went along with it. But their philosophy was closer to that of the Metropolitan Water District, and when both the L.A. Department of Water and Power and the Chamber of Commerce went with the program it was very difficult for the Met to stand out alone against them. I think that those items were important.

Considerable support for the program was obtained through labor organizations, too. For example, as I recall, the laborer's union was one.

Chall: Which union?

Brody: The building trades and also the operating engineers came along and that was helpful. Now, until the end, on the other hand, the AFL-CIO opposed the project.

I'll go back an little bit and jump around here. Illustrative of the fact about sequence and how these things develop, there are a few items, maybe, or at least one, that I can recall that is illustrative of what I'm talking about. The original draft of the bill, as I recall, was prepared with a description of what now is defined as the water resource development system in the legislation --that is, it was the whole program for the ultimate water needs of the state. It shortly became apparent, both from the standpoint of state interest and protection--everyone's protection--and particularly in view of the concerns expressed by the Metropolitan Water District, that you didn't want to get into what might be untenable positions. You had \$1.75 billion in bonds identified here and limitation as to amount in that particular point in time--particularly as far as authorization was concerned--and you wanted to be sure that it was going to be spent on the works that you had in mind when you computed the figure. So as a result of that, we broke out the specifics from the ultimate plan.

Harvey Banks and I worked on this as well as Bill Gianelli and others. We broke out specific facilities which now are defined as the state water facilities in the legislation, for which the money was to be spent, and the basic framework of that was the old Feather River Project--Oroville Dam and the other things--plus the other items, so that that was an evolutionary kind of thing. Do you want to turn it off for a minute? I'm marshaling some thoughts here.
[tape interruption]

I'll mention as an aside here in that connection, that I recall that after the Charles T. Main Report came out, southern California was concerned about the adequacy of the funds, to some extent, and they wanted to be sure that the project wouldn't be started and part way through then run out of money and they'd have to pay for a project for which there wouldn't be any facilities to serve them. As a result of that, while there was no change in the legislation, the program was changed in the sense that you started building a project at both ends so that we knew that if we did run short of money, you'd have to go back and get the money necessary to fill in the gap. That provided some kind of reassurance to those people and there was a certain amount of logic in doing it that way, particularly from a political standpoint, because the public would be more receptive to finishing an unfinished project in that sense than they would in any other.

Chall: Was that a general promise? Was it a political promise?

Brody: It was a general promise.

Chall: It wasn't in the bill.

Brody: No, it wasn't made a legislative matter. This was after the legislation was approved. But nevertheless, there are the kinds of things that develop as you go along. [pause] Each phase of the bill was developed with the assistance of people like Gilmore Tillman and others--Harvey Banks, Bill Gianelli. Everyone had a hand in it.

Chall: What about Richard Richards? Did you say he had given you some assistance in the senate?

Brody: Oh, yes. Richard Richards, I think, was a very powerful force in the state senate in getting the approval of the legislation for the bond measure, in the senate, and in aligning forces for the south. I think he and Hugo Fisher were outstanding in their work in the senate. I think Fisher's work was more covert. I don't mean that in a disparaging sense. I think his activities were less conspicuous than those of Richards. But I think that great credit has to go to Richard Richards and I don't hear it given in these times.

Chall: In marshaling the forces of the other senators from the south and afterwards?

Brody: Yes, plus public approval, and working with the Met and trying to get them. He played the role in the south essentially as I see it, similar, in the senate, that Carley Porter played in the assembly. I think that if it had been anyone other than Hugh Burns, as one of the authors of the bill, it might have been Porter-Richards, except that I think politically that would not have been a desirable thing, both coming from the south. But the fact his name wasn't on the bill doesn't mean that he didn't contribute a lot toward its success.

Chall: That's worth putting on the record then because I don't think it's there.

Brody: The important parts of the legislation, as I think I've said earlier, were one, describing the state water facilities; two, providing the authorization for the comprehensive program of the water resources development system which as I see it would tend to render unnecessary specific authorization of a peripheral canal if they wanted to build it. They can do it under this act.

Chall: Yes, it's there.

Brody: But the other one was the matter of how you avoided the necessity for a constitutional amendment and having the funding and providing the assurances which you would have gotten if you had the constitutional amendment.

Chall: Yes, that was a brilliant stroke, I guess.

Brody: The other was the matter of how we assuaged the fears of the two areas. We did that ultimately by providing the money for the facilities necessary to make up for any deficiencies that might have been created by the county-of-origin usage of water.

Chall: But you still had the problem, the fears in the north and the south, when it came to the proposition, didn't you?

Brody: Oh, yes. Well, I don't think people completely understood that program. These emotional things without any logic at all become deep rooted and not only that, you can't reach every segment of the public. I find in most public issues, as I've lived over these years, that the public in general does not become informed or educated--at least in the United States--on these issues and their reactions are for the most part visceral. The emotions--They say, "They're taking our water out of the north. We may need that some day." They don't look to see what protections are given to them about hanging onto it. The south says, "We're building a project and we see the north has some protections up there. What protection do we have that we're not going to pay for an empty canal?" Those things are played upon by the opposition of the project. It is commonly accepted among people who work in government programs that it's easier to get "no" votes on propositions like this than it is to get "yes" votes. The natural reaction is to vote "no." So what you have to do is to convert people in order to get approval of these programs. Most bond issues, when you start out, are "no" propositions.

Chall: Or you have to phrase it so that no means yes.

Brody: Well, I don't think that. I think that what you have to do is convince the people. I don't believe in this business about--I don't like the way these propositions are worded in California where they deceive people. I think if a person really wants to vote no he should be entitled to vote that way, and he should not be fooled into voting for something. What I'm saying is, though, that I think that you have to do your best toward educating the public.

I guess what it boils down to is this, that in my judgment, if the people of the state of California had completely understood the program and all that it contained, my personal judgment is that the

Brody: vote would have been much larger for the program than actually was the case. I think they were educated against it and that's another element of this thing. You would have thought that there was a lot of money that might be available to advertise and to have a program, and it was a miserably small amount. That's one of the reasons why I think there was a low vote. We had no opportunity to educate the public on this thing, but yet we had a very vocal press against it in the form of the San Francisco Chronicle and others. We got the San Francisco Examiner for us, but you had a potent force in the AFL-CIO against us. The paid ads against us were fantastic as contrasted with any paid support that we might have had.

So I say that it's a part of one of the weaknesses of our legislative or democratic process that people can't or don't become completely educated on the issues and vote on them in the fashion that they might otherwise do, at least as I see it.

Chall: You were one of the main spokesmen all around the state from time to time.

Brody: Yes, I think I made more speeches than anyone else.

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Brody: In support of what I have just finished talking about a moment ago, I would say that at least as far as I was concerned (and maybe I was more enchanted by my own words than anybody else was) but I felt that whenever I left a group, when I had completely explained the pros and cons--and I always tried to set out the adverse side of the picture too in this thing and not only the pros--that when I left, I always felt that the group was substantially in support of the program, when they may not have been or they may not have had any opinion before they came. I felt that when they understood the program and what it stood for and what it could do for the state of California, I felt that they supported it. And it turned out that the votes supported that--not by an overwhelming majority--but I think that the speaking tours, of all of us, are what put it across. Afterwards the governor said that to me--that he felt we had done well. He himself went out.

Chall: Yes, I know.

Brody: I want to say also that there's no gainsaying the fact that the political leadership of Pat Brown, and the interest he expressed, and the effort he put forth on this whole thing in terms of putting it across, was largely what made it a success in the legislature particularly. I don't think he had--I know that he wasn't as familiar with the details of the program or in the working out of the

Brody: details of these things except in its very broad aspects, as one might think. But without his political suasion, it couldn't have succeeded in the legislature. I think the people of this state owe him a great debt for that.

But I would not have called him an expert on that legislation. While he was generally familiar with it and we'd go to him for approval in general of what we were doing, I don't think that there was a great amount of detail. His assistant or his then executive secretary, Fred Dutton, I think was more familiar than he was. I worked much more closely with him than I did actually with the governor, although I did work with the governor in explaining it to him.

Chall: Was Fred Dutton easy to work with and helpful?

Brody: In a way he was. I felt that Dutton got into it more than what either his knowledge or his time would have warranted.

Chall: Why did he do that do you think?

Brody: I think one, because he was interested. In one area, for example, I think that Dutton felt, as I originally did, that perhaps acreage limitation might have played a greater part in the program than it did.

The Question of Large Landholdings

Chall: Can you explain that, how you felt that you could utilize acreage limitation in this program?

Brody: Don't misunderstand. I was not convinced at that particular point in time because I felt it needed a good deal of study. But I felt that there should have been groundwork laid for further legislative consideration of the question. I felt that one, there should be an examination of the general policy of whether you wanted to encourage small farmers and farming or if you wanted to discourage it. I felt it was more a matter of wanting to discourage the accumulation or retention of large landholdings more than it was a matter of--I wanted to provide the opportunity by having a dissemination of title to the land so that there would be more opportunities for somebody to buy land if they wanted to and operate it themselves. However, I did not see a justification for it in terms of the traditional reasons for having acreage

Brody: limitation--justification for having it--because in the state project, you didn't have any subsidy and the whole justification for it in the federal program was the subsidy.

Therefore, that is why I say that there should have been more study to determine whether, if it was a sound policy to encourage small farms, then perhaps there is some other kind of attraction that could have been put in a legislative program, whether it be in bond legislation or something else, in some subsequent point of time, which would have encouraged a break-up or prevented the accumulation or the retention of those holdings. Independent of the subsidy question.

I mean if it was a desirable policy (and that's what I feel about reclamation law today) that if small ownerships are important, and living on the land, and all of these other things are important --as a matter of policy for the United States--then they're not important because you put water on the land, they are important in terms of the general policy. That's one way of applying it. Therefore, I feel, that in the federal programs and this, that Congress ought to be looking at means by which you can encourage small ownership, or discourage the retention or accumulation of large landholdings and it should be attacked as a policy or at least studied in that manner.

That's the way I felt basically about the state program. There was a state constitutional provision in effect at the time for nonexcess landholdings.

Chall: Yes, I think I remember that. It started [as an initiative] and never went very far.

Brody: No, it was in the constitution.

Chall: Where was this?

Brody: In article 17 of the constitution a few years ago--

Chall: Was it a proposition or was it in the constitution?

Brody: No, it was in the constitution. It said that the state shall discourage the accumulation or retention of large landholdings or something like that, and in the distribution of public lands. But it was in the state constitution. But I didn't feel that it was justified in the context of what the traditional reasons for applying acreage limitation were for. I think that Dutton felt essentially the same way. He perhaps may have felt even more strongly that it should have been put in the state legislation. I said that I didn't think at that point we knew enough about the broader aspects of this.

Chall: Do you think that you could have passed that legislation with it in it? Was that a consideration?

Brody: I don't know whether you could have gotten it through the legislature.

Chall: That's what I mean.

Brody: I think you could have gotten the approval of the voters for the simple reason that a majority of the people voting were urbanites rather than farmers and they wouldn't have been as disturbed by that.

Chall: But getting it through the legislature--?

Brody: But that wasn't the reason it was not done. The reason it was not done was because there was no justification for it in the traditional sense.

Chall: Getting back then to this matter of subsidy, did you tell me yesterday that you had written this letter that Brown signed that went to Grace McDonald?

Brody: Yes.

Chall: In that there is the justification for the surcharge--this is because of the power as I understand it. One of the statements made is that, "This means therefore that the production costs from the standpoint of water allowance on lands in excess of 160 acres will be from eight to twelve dollars more per acre than it is for the smaller owner. This in my judgment will tend to discourage the retention or accumulation of large landholdings." Did you really believe that at that time?

Brody: Yes.

Chall: Do you think that it has?

Brody: No, because I don't think it was applied or really administered. But I also believed that--again, this is where inflation plays a part--eight to twelve dollars an acre at that time was a substantial amount of money in terms of the farmer. Today it isn't. Don't forget, there was already high cost water.

Chall: Yes, so this would be extra.

Brody: Yes.

Chall: I just wondered about that because I've never been quite clear whether this would really have worked or whether it was a small bone to those people who wanted to curtail what they termed unjust enrichment.

Brody: No, I think that it did two things. One was it removed the element of subsidy which was done in the federal legislation, the Engle bill, the federal Small Projects Act. If you removed the subsidy, then you remove the acreage limitation. The second thing was that I felt that it would discourage these people and those two things coupled were there.

Chall: This was to be administered by--

Brody: By the Department of Water Resources. It wasn't a legislative thing. Of course, the governor also sent a letter at the time Congress was considering the San Luis Project authorization in which he stated that he intended to present an excess land program to the legislature and therefore, the Congress should not attempt to apply the federal excess land law to the state project.

Chall: It was a policy statement. Was it to be administered by the contractors, let's say the Metropolitan Water District or the Kern County water agency?

Brody: Don't forget that at the time this was done, we were thinking in terms of what the framework of the legislation was and the principle. Now, underlying my thinking was that in the contracts you'd have specific detailed provisions about how it was to be administered and you placed the obligation on the local agency to do it.

Chall: Yes, I thought that that was one of the sticking points with the Metropolitan Water District. They didn't want to do this, but I'm not sure. There were so many problems there. I just wanted to make sure that I understood what this was all about.

Brody: Now that you mention it, it strikes a sort of familiar note.

The Contract with the Metropolitan Water District

[Interview 2: January 24, 1980]##

Chall: I wanted to be sure that I understood what we were talking about yesterday, that there was this statement of contract principles which the governor was sending to the legislature the day after

Chall: you had worked up a sort of general speech that he gave on the radio outlining them very briefly. Then there were the contract provisions themselves with the Metropolitan Water District, the prototype contract. Now, did the prototype contract develop from the contract principles that you laid out?

Brody: They were supposed to.

Chall: Did you have anything to do with the actual development of the Metropolitan Water District's contract?

Brody: Very, very little if anything. In the first place, I'm not so sure I was completely happy with what was being done. I don't remember now why or what it was. I may have felt that there was an abandonment of the principles. I don't know. But you see, the principles really were developed because of the Met. They were developed because the Met wanted a contract. We couldn't give them a contract at that particular point of time, and we wanted to get some kind of support, so we said, "We'll tell you what the principles are going to be on which we're going to contract." Now, it may be that I felt that they were being ignored to some extent, because they really were the policies that should have been followed. They may not have been. I don't know.

Chall: Reading over that article by Skinner-- *

Brody: I got nothing from that.

Chall: Okay, because all I have is what was finally determined in general about the agreement.

Brody: Skinner's article lays them out principally to the matter of pricing and I don't know that I had any reaction to it. If anything, I didn't like the way the general pricing procedure was, myself. I guess, now that I think about it, if anything I leaned toward agriculture and I felt that they weren't getting a fair shake out of it. I don't know why--at this point, I don't know why--but I felt that there was such a desire to get the Met's name on a contract, that agriculture to some extent was being sold out.

Agriculture and the Pricing Policy

Chall: That agriculture would have been where, in Riverside, the San Joaquin Valley? That's the Kern County area that ultimately got much of the water?

*Skinner, "A Summary of the State Service Contracts"

Brody: Yes, but I wasn't thinking in terms of Kern County. I was thinking of whatever area might be contracting for water in the future, because I felt that Kern County interests from time to time might have been asking for much, too. It affected what might be done in the northern part of the state, too.

But those kinds of things are judgmental. Well, they were more than judgmental. It is a judgmental question whether what was done was appropriate to be done. But I was also concerned with some of the policy considerations that were involved, in that, should your policy be to say that... The urban user of water, if you doubled the cost of water to the urban user it doesn't make a significant dent in his picture. But if you double the cost of water to the farmer, it makes the difference between survival or not, and this was the kind of thing that concerned me.

Chall: My impression has always been that the urban dweller--I guess it's now termed the M. and I., municipal-industrial--that they really are bearing the cost of the water project.

Brody: The state water project?

Chall: Yes.

Brody: Well, certainly not on the basis of which cost allocations go. If the cost allocation procedure that they established was legitimate, then they are paying for the facilities that are necessary to get them that water, plus the interest. I think in federal programs the urban users pay more because the interest they pay is used to reduce to cost of water to the farmer. But that's not done in the state project as I see it.

Chall: But these are criticisms that people have. I am in no position to know. This matter of pricing then that we talked about at breakfast this morning--the proportional use--you had nothing to do with establishing that.

Brody: I think initially I made some efforts in the other direction but I gave up on it.

Chall: How would you have done it?

Brody: I would have established a postage stamp rate for water.

Chall: Which means that--

Brody: The same rate throughout. You might establish rates for regions--I felt that--this goes back to the concept I was talking about in terms of federal programs--to the extent you were able to do so

Brody: within the bonding limitations, they should try to establish rate procedures that more nearly met the needs and abilities of the various areas. In other words, not to try to strike the best bargain for the Metropolitan Water District. You had to have the other elements of the project in order to justify even the Met's portion of this. Therefore, something more than just the bare cost might be involved here, if they could afford to pay it, in order to get the facilities for the other area which they both needed to have. Do you see what I mean?

Chall: I think I understand.

Brody: I'm saying that if the Met had built its own project, it would be tremendously expensive. Therefore, they needed the other part of the project as a partnership arrangement. Therefore, if the other area needed some assistance, you should not necessarily say, "We'll take only what it actually cost to supply this water to the Met physically." You have to take into account these other factors existing as justification. That's assuming, of course, that the other area needs assistance or does want it. Then I see nothing wrong with it. I think inflation has saved the agricultural portion of the state project. I don't think that without inflation that they can survive the prices for water that they now can. I think it's just too high. I was afraid that they were killing the project by killing the agricultural aspects of it.

Chall: But eventually they did come around to giving some type of subsidy.

Brody: Yes, they did but that was a temporary kind of thing and I wasn't sure that I approved of doing it in that way. To me, that seemed to be a little bit devious. I felt it could have been done more directly and honestly.

Chall: Harvey Banks in his interview did say that he felt that there were some problems or maybe errors that were made in pricing but they didn't really know enough in those days to make a decision.*

Brody: Not only that, they didn't know what was going to happen to the economy.

Chall: He says he was always concerned with the agriculture,

*See interview with Harvey Banks, California Water Project, 1955-61, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1967, pp. 41-43.

- Brody: Well, he was concerned in the sense that he knew that agriculture had a limited capacity to absorb cost. I think if he had been really concerned about the future of agriculture, he would have done more about it than he did.
- Chall: I gather then that in those ten months of jockeying between the Department of Water Resources and the Metropolitan Water District, that you were not involved closely?
- Brody: I can't remember. It seems to me that that was going on at the time we were campaigning and my efforts were directed more to getting this thing approved by the people generally.
- Chall: Do you have any knowledge about whether someone like Porter Towner in the Department of Water Resources may have helped on those prototype contracts?
- Brody: Well, he did. There's no question about it. He did a major portion of the drafting, but the concepts, I think, were Harvey's and he worked more closely with him.
- Chall: The principles upon which all of this was supposed to have been based then, you feel they emanated from you?
- Brody: Yes. Now, the context went beyond the principles. By that I mean they covered more than just what was involved in those principles. But I'm saying that these contracting principles were supposed to govern the essence of the contract. They were intended to reflect broad policy.
- Chall: Sometime in September--that was before the Bond Act was passed--Pat Brown told me that he announced that William Warne would be the head of the Department of Water Resources and Harvey Banks announced his resignation but did not retire until the end of December. William Warne himself doesn't know exactly why Pat Brown chose to make the announcement.
- Brody: I don't recall that the Warne announcement was made in September. I know that it was made after I left, which was after the bond election and I believe the Warne announcement was made after Harvey retired. I think Pat's memory is bad on this. I don't think the announcement was made at that time. The reason I say that is that I left the department after the election.
- Chall: In November or December?
- Brody: No, I think I left later than that, didn't I?

Chall: Well, the election was in early November. I don't remember the date right now, the eighth, I think.

Brody: Yes, but I left that same year, I guess--1960. So it had to be in December if I did, but I thought it was much later than the election. That's the thing as I recall it, but apparently not. But at the time I left, I didn't think the announcement had been made. I know that the announcement had not been made that Bill Warne was going to succeed Harvey, and before I left Pat asked me if I would take it, before he announced it.

Chall: Is that right?

Brody: Yes, I remember him stopping me in the hall. I said, "No, I wasn't interested in the job." I never was interested.

Chall: That close to the time?

Brody: Yes. And that's why I'm confident that the announcement couldn't have been made before then. I just can't conceive of my having decided before the election. I can't conceive of him having made that announcement then, and I know that he offered me the job before I left. I can't remember whether it was after I had told him I was going to leave or not, but I know it was before he made any announcement about Bill Warne.

Chall: I've always wondered why it was made at that time Mr. Warne thinks it was made.

Brody: I think you might want to check the press and see because I would be interested in knowing myself, but I don't think that he announced it at that time. I think Harvey announced possibly--I can't even remember whether Harvey announced he was going to leave before I did or after.

Chall: I understood it was before but then maybe I should get back into the press. That's the best place for it.* I think that's all I wanted to do on that.

Brody: We didn't say anything about the Charles T. Main Report.

Chall: Yes, you told me about the Charles T. Main Report, yesterday.

*Announcement was printed in Western Water News, 12:9, September, 1960, p. 2.

Brody: Did I mention Gianelli on the record the other day? Do you remember I told you about the cost overrun?

Chall: Yes.

Brody: Was that on the tape?

Chall: Yes, the Oroville Dam.

Brody: I said that I got the memo showing it was \$287 million.

Chall: Yes, we got that yesterday.

II WESTLANDS WATER DISTRICT, 1961-1977

The San Luis Reservoir Contract

Chall: I would like to talk to you about San Luis. You were already working, I guess, for Westlands Water [District]. When did you begin to work for Westlands?

Brody: I went immediately from the governor's office to Westlands.

Chall: It was 1961 at least.

Brody: Yes. Was it '61 or '62? I was in the governor's office almost two years so that would be '61, wouldn't it?

Chall: I would guess so.

Brody: I thought it was November but that doesn't sound right.

Chall: You could have left immediately after the election, or the end of November. The election was early November.

Brody: Gee, I thought I was around there longer than that after the election, but I guess not.

Chall: During the whole year of 1961, January right through to very last day of the so-called deadline, you, and members of Pat Brown's staff, and the attorney general's office, and the Department of Water Resources were working very hard to get the San Luis contract signed.

Brody: Do you mean the legislation?

Chall: No, the legislation had passed. The legislation had authorized the Department of the Interior to enter into agreement with the state of California [by December 31, 1961].

Brody: But I think it may be true that I was with Westlands at the time the contract was being negotiated.

Chall: Yes, I think you were. I wanted to establish that. Let me give you this. I think we have another copy but look that over, particularly this last page. [brief chronology of activities of state officials leading up to signing of San Luis contract prepared for the interview] You can see your name in there as one of the people who was very actively going along, with the state people, to insure that that contract was signed without the 160-acre limit in it for the state.

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Brody: What you've handed me apparently covered activities that took place after the San Luis authorization was passed by Congress while they were talking about the contract between the state and the federal government. Hardly anybody there talked against the 160-acre limitation. The question was whether it should be included in the state contract, even though not required by law. This has to be examined in the context of the authorization of the project itself. There was a lot of debate in the Congress as to whether acreage limitation should or should not apply.

From the beginning it was always contemplated that you would have a state project and a federal project. There could have been a separate project build by the state in which event, unless the legislation expressly said so, acreage limitation would not apply.

Now, the fact was that the state's position, in the authorization discussion, was that the state, by entering into a partnership with the federal government was not yielding any of its authority. The beneficiaries of the state project were still going to have to pay the full cost. Only the federal beneficiaries were getting a subsidy. The subsidy was cited as justification for the acreage limitation. Therefore, from a legislative standpoint, it should not be specifically imposed upon the state and it was not specifically imposed.

Now, people like George Ballis, Paul Taylor and others got involved. I think you have to go back to the legislation in order to arrive at the point of the contract. I want to mention as an aside here, the fact that I or a number of other people like [Abbott] Goldberg and others were saying that legally it was not applicable, or should not be made applicable in this instance based on the historical reason for the imposition of it in the federal picture, did not mean that we were against the principle of acreage limitation. Our position was that as lawyers and as administrators of the project, that unless the same reasons existed--the justification

Brody: existed--for imposing it in the federal service area it should not be imposed in the state service area. Secondly, it was a matter for state concern, that the state legislature should impose it if it's going to be imposed and not as a matter of imposition by the federal Congress. If there were two separate projects--one federal and the other a state project, obviously federal law would not be imposed on the state project, and the fact of their joint partnership did not change the matter.

On the other hand, I remember Ballis's testimony and Paul Taylor's testimony saying [that] all people in the Central Valley should be treated alike. I want to come back to this when you and I get around to talking about Westlands. They were using that argument to say that acreage limitation should be imposed upon the state service area. They were contending that they wanted an express statement. Well, the colloquies that took place in Congress made it clear that it was not intended to apply and it was not legally applicable in the state service area.

Chall: Even though they left Section 7 out of the bill which would have indicated that Congress had intended that it would apply?

Brody: As I remember Section 7--

Chall: It was 7 in one of the House bills [H.R. 7155] and 6(a) in one of the Senate bills [S. 44], but ultimately it was removed.

Brody: Yes, but I think it applied to other subject matter than acreage limitation.

Chall: My basic understanding is they managed--I think it was in the House --to eliminate 7 and thus not specifically exempt the state service area from the acreage limitation.*

Brody: For the reasons I have stated, it could have been imposed only by specifically legislating it. In other words, it would require specific legislation to make it apply. It did not require legislation to exempt it.

Chall: Why did it take a whole year then? What was the problem with [Frank] Barry and [Stewart] Udall?

*Paul S. Taylor, "Excess Land Law: Secretary's Decision? A Study in Administration of Federal-State Relations," UCLA Law Review, Vol.9, No. 1, January, 1962, pp. 1-43.

Brody: Do you mean afterwards?

Chall: Yes.

Brody: I want to come back to that.

Chall: What was their problem?

Brody: If I recall correctly, they were arguing that since the Congress said nothing, pursuant to federal reclamation laws, that it was intended to apply. They were taking the position contrary--

Chall: That Congress meant it to apply?

Brody: They were leaning in that direction. They weren't persuaded. You have to bear in mind that Barry philosophically wanted it to apply, as did these other people. We felt that it did not apply and that the justification for application was not there. So when it came time for the contracting--my recollection is hazy on it--but I think that I was making the same kinds of arguments to Barry as to why Congress did not intend that it should apply, that was made to the Congress, and that I made to you just a moment ago. Those were the presentations that were made.

To me, it was abundantly clear that Congress did not intend that it should apply in the state service area when it enacted this legislation, and that Congress would not be justified in doing it in any event. But if they had done it, even though they were not justified, I would have supported it. But in my judgment, they did not.

As far as I was concerned--as an advocate for Westlands--it made no difference, because we were in the federal service area where it applied. Interestingly, you'll find in the record of the San Luis authorization hearings, a letter from the governor indicating that he intended to do something about acreage limitation on his own, after study, and make recommendations to the legislature, although it was not done. Maybe they felt it was enough to provide for the surcharge. In the state contract, he felt that was adequate for the purpose.

But the meetings with Barry. I think there is no question in my mind but that there was an attempt to put it in the contract. There may have been discussion taking place too as to whether they could do it administratively even though Congress did not require it. I can't swear to that, but that's the only way I can rationalize it in my own mind, as of this point, that Barry was saying, "We'll put it in the contract." That's why I think the secretary [Udall] was drawn into this as appears to have been the case.

Brody: So there was the question of administrative imposition of it in the contract itself, but the same reasons would prevail against inclusion administratively as inclusion through legislation.

Chall: I guess it was uncertain. The state people certainly didn't want 160 acres included in the state project through the federal government, so there must have been a considerable amount of concern. You, I think, were working for Westlands at the time, so you would come over then and discuss this with Brown or Abbott Goldberg. Do you recall?

Brody: This is in October or November of '61 and I think that I was still with--now, if I look at this chronology, I think I must have still been with the state. I know there was a period of time when I was commuting to some extent back and forth.

Chall: You would have some dates, wouldn't you, somewhere in your own files about when you left the state?

Brody: I keep the poorest records of anyone you ever saw.

Chall: We really ought to know when you became director of Westlands.

Brody: Oh, when I started working there?

Chall: Yes.

Brody: I left after the bond election and before Warne took over.

Chall: Yes, the election was November '60. Warne took over as director January 1961.

Brody: Then this was after I was at Westlands. But I went back there, I'm sure, for Westlands, as its interest in the contract. That's the only way I can figure this. I think probably my memo that you refer to here in September '61--that I gave to [James] Carr and Dutton--must have been an earlier memo. Do you have a copy with you?

Chall: No.

Brody: That I prepared when I was with the governor's office?

Chall: Whatever I've got there was material that I found in Pat Brown's files [in The Bancroft Library]. That information came from a letter or a memo that either Abbott Goldberg or most likely William Warne wrote to Brown when they returned from Washington.

- Chall: So it doesn't indicate what you wrote. It's just a matter of my knowing that you were all there together. I do think, now that I recollect, that this was from a letter or a memo that Warne wrote to Brown at the time.
- Brody: So it is his memo.
- Chall: You probably went back with a memo. Since all this is in the record, what I'm really concerned with is what your reasonings were, how you dealt with Barry particularly, people whom you've known, worked with, and continued to work with. Their attitudes and yours.
- Brody: Just as I was accused--well, I don't know whether I was accused of distorting my legal judgments. But it seemed to me that Barry let his own philosophical views becloud his legal judgments, and I was concerned about that at times. I felt he looked the answers up in the back of the book, and then justified them. I don't know. I may be doing him an injustice. He was really very strongly pro-acreage limitation, tremendously so. Some of my experiences with him when I was with Westlands--it just seemed to me that his positions were completely unreasonable in terms of the law.
- Chall: Let's see, so we got the San Luis contract signed I think it was about twelve hours before the deadline [laughs], but it was a tough year and I just wondered what you were doing during that year.
- Brody: Now that points up things that I don't recall. I didn't recall that I played that much of a part in the negotiation of that contract.
- Chall: How much you did I don't know, but obviously you had something to do in there, and it is interesting because you were then working with Westlands and, as you say, it wouldn't matter to you one way or another.
- Brody: As a matter of fact, Westlands might have been better off if acreage limitation had been imposed on state service area.
- Chall: Why?
- Brody: Well, I don't know. It just seems to me that people feel an element of unfairness. They feel they are treated differently.
- Chall: Well, they definitely are, of course.
- Brody: As it turns out, particularly in the cost of their distribution system, they end up paying almost as much for water as they're paying in the state project and yet they don't get the benefit of being free of acreage limitation.

Chall: But there is a subsidy which must provide some relief.

Brody: There is a subsidy, but if they had gone the state route, they would not have been subject to acreage limitation. As it turns out now with inflation, they are paying what would have amounted to full costs in the state service area anyhow.

Evaluation of the California Water Commission

Chall: When you left the Department of Water Resources, you were put on the California Water Commission and a year or so later became the chairman when Carr went off.

Brody: As a matter of fact, I was put on in Carr's place. [January, 1961]

Chall: You said you didn't want to spend too much time discussing the California Water Commission?

Brody: I didn't say I didn't want to. I say that I don't think there's anything there that really contributes to the history of this thing. Then after that I thought of some things, but I don't remember now what they were. They weren't significant. Oh, one thing was, the water commission at that point served as a kind of watchdog over Warne during the state project construction. But we didn't always get along with Warne on a lot of these things. I don't remember what about.

Chall: Serving as watchdog, what would be your relationship with the project or with the director? Did you have to look at contracts?

Brody: To some extent, as I recall, we did look at contracts. Our function at that time was to advise the legislature on policy and to look at the department's activities, among other things. We were also responsible for the assignment of state applications--water applications--for use on the project. Those all affected what could be done with the project. Warne used to report to us. By report, I don't mean in terms of being responsible to us; but he used to make reports to us and we were there to comment. We would comment on it. We'd take issue with him on some policy matters as they came along. There were some areas where he needed our approval.

Chall: But there was nothing specific?

Brody: There was nothing major that really transpired.

Chall: I was interested in Harvey Banks' comment about the water commission.* This was discussion anent the fact that when the department was reorganized in '56, I think, the commission was set up as an advisory commission rather than what it had been before--a policy board--and he felt that it would still be better if there were a policy-forming board within the department. He wasn't quite sure how it should be set up, but he did feel that it would be better than this advisory system.

Brody: I agree with him. Yes, you see, if you go back in history in California--remember I talked about the state applications for water? Originally in the 1930s when the Central Valley Project which included what is now a State Water Project was to go ahead, the legislature directed the director of finance, not the state engineer--who was the predecessor to the director of water resources--they directed him [director of finance] to file on all of the unappropriated waters of the state necessary for comprehensive development of the water resources of the state. Now, they turned it over to the director of finance to do that--to be in charge of these water supplies--for two or three reasons. One is that they didn't want a lot of projects being developed out here by others which would dissipate those supplies on a narrow basis and which would not be part of the comprehensive plan. Two, they wanted the director of finance to do it, and to require assignments to the state project, because they didn't want the guy who was going to be building the project (who they thought was going to be building the project at that time and who would need the water supplies) to be making the decision with respect to the water rights. They wanted some check on him. So they required that the state engineer, or the director of water resources, go to him to get his water rights. That was later turned over to the commission.

Now in addition to that, originally, the predecessor to the water commission was the state Water Project Authority and it wasn't all left to one man. You had an authority--an ex-officio member, I remember, was the attorney general, the director of finance, the state treasurer, and then they had public members. Well, they were to oversee the policy of the state water program and I think that was sound, rather than have it be one man.

Chall: But at the time they didn't really have a program like the kind you--

Brody: That's right. There was nothing going forward, and ultimately the Water Project Authority was done away with and you had the water commission and they advised on policy. Then you stripped the water

*Harvey Banks interview, pp. 43-44.

Brody: commission of its policy-making function. But in reality I think you do need an overseer of the State Water Project in terms of its administration in policy matters and comparable items. So in concept I think it's good and I agree completely with Harvey that you need some kind of watchdog over the director of water resources and particularly since you could get a director of water resources who was a very ambitious man to build more projects and to operate them in a particular fashion.

I think, for example, in terms of whether you should have an acreage limitation or not, or recommend to the legislature about that; you should have some larger body or different body than just the director of water resources. Do you see what I mean?

Chall: I do, but I'm wondering if that would come about since most of the people who were ever appointed to the water commission and the [water] authority before that were generally people who were interested in agriculture in some way.

Brody: I don't think that needs to be. Don't forget that originally, at the time the Water Project Authority and the water commission were first developed, most of the comprehensive plans for the development of water resources of the state were related to agriculture.

Chall: Yes, they were.

Brody: Municipal water supply was a minor, insignificant matter. Now, times have changed and the composition may have to be different. That's all the more reason, I think, for having the board than having one man do it. Now can the one man represent the interests of both?

Chall: You think that wouldn't--

Brody: Maybe the result wouldn't have been different. But I think that you get a more objective kind of consideration and a comprehensive consideration by having different people on it. I like the concept of an authority. I like the concept of the TVA. I think if you get the right kind of people on there, it can be run much more efficiently. I think the director of water resources should be an engineer. But I think that engineers are famous for not being able to be policy makers.

Chall: So you put policy then in the hands of some board representing various interests that would be concerned with it? Almost at this stage then it goes back to the way it was before, to some degree, in '56.

Brody: Well, I would prefer it.

Chall: At the time that the State Water Project was being developed--the Feather River Project--

Brody: I thought of this as a possibility.

Chall: But do you think that that whole project could have been developed the way it was without somebody like Warne at the head of it moving it through? Do you think a policy board would have been able to direct the construction?

Brody: It would leave the engineering aspects up to the engineer.

Chall: I see, it would be an engineering project.

Brody: But Warne wasn't an engineer.

Chall: No, he wasn't.

Brody: Leave that up to the administrator. It's the policy aspects of the thing I think that were important, that need to be considered by this. I would certainly have welcomed seeing a board establish the pricing policies more than I would Harvey, and I think I would do it more than I would see Warne, although I had great confidence in Warne's judgment in those lines. I would have had more confidence in having a number of people like that. Warne would sit on that authority. To me it makes a great deal of sense.

Chall: Then you would have had a staff person who would have been helping to develop this pricing and come back to the board for consideration of the policy.

Brody: I don't care if the Department of Water Resources itself would prepare that. I just want it to be considered by people other than just the director, and people who were informed--not mere political hacks.

Chall: So even as you sat on that board you gave this some consideration. Is that right?

Brody: Yes. Even when I was with the governor's office I thought about the idea. I didn't think it would succeed at that point in time, of having this handled by an authority. I didn't think it could be successfully completed the other way. I know what would have happened if Harvey had stayed on. Harvey is a personal friend of mine. But I think his talents are different and his thinking is different. I think he suffers from a lot of human weaknesses that

Brody: any one man on the job would suffer from, and I think that if you had a number of people there, it's a sort of check and balance situation. But I think the contractual program could have been a better one. I think that the administration of the project--from a policy standpoint--I would have been fearful about at the time. As it turns out, I don't know--the administration hasn't been too bad as I see it.

But I think that you could have gotten broader policies and more out of the program than has been gotten in terms of general, as distinguished from purely local, benefits. I don't think these projects are built to serve particular individuals and I don't think they're built as monuments or just to get water to the land. I think they're built to promote the common good and broader public benefit, and it seems to me that the administration of these projects should be done on that kind of basis with that kind of philosophy in mind. What's the greatest general good that can come out of this thing. The direct good to the immediate beneficiaries is important certainly because it's from them that a lot of the public benefit flows, I think. But I also believe that there might be other ways in which you could better distribute these benefits. But at least you need somebody in charge who has that kind of philosophy in mind.

Chall: As you say, whether that would be considered as you would want it to would depend on who was on the board, who was the governor.

Brody: That's right. You have to have a good selection process for that. Implicit in democracy in these things it is the faith in the fact that the people who are appointed to the jobs are going to be capable of doing them, and that if the appointing power doesn't do it right, then you throw the rascal out. Now, we don't pursue that but that's the ideal.

Chall: Can you cite any ideas you have about how the benefits of the state water project could be--

Brody: No, that would require some time for thought.

Chall: You just feel that?

Brody: I just feel that way about it. At times I may have had thoughts on the subject. I just think that all these things--if they don't have to potential of providing a broad basis, then query whether there is a justification for the state or the federal government to be in in the first place.

Chall: Well, I'm glad that we brought up the subject of the commission! There's quite a bit there; more than I would have expected.

Brody: That's not historical, that's philosophical.

Chall: I think that philosophy has a great deal to do with history.

Brody: That's why I sometimes have reservations about my value to you as an historian. I get off on my own philosophical dreams.

Chall: No, I think it all has value.

Negotiating the First Contracts for Westlands, 1963-1965##

Chall: I've jotted down a few questions to help me keep up with you! You know this article that was in the California Journal.*

Brody: The author of that and I have had problems in the past. It started when I responded to an article he wrote for the Fresno Bee. He didn't like my response because I accused him of distortion of the truth. You saw my response to that article, didn't you?

Chall: No, I haven't.

Brody: It was published in either the same issue or a subsequent issue.

Chall: It may have been a subsequent one. I should have it then. I'll go back and look at it.**

Brody: It wasn't given the prominence that that was.

Chall: Yes, they're usually in the back somewhere. I wanted to establish, first of all, when you went in as director of Westlands, but we're not absolutely sure of that, are we?

Brody: No. Well, it was immediately upon leaving the governor's office.

Chall: Then I suspect it was January of '61.

*George L. Baker, "Westlands' Ralph Brody--the \$81,500 Public Servant," California Journal, VII:9, September 1976, pp. 293-296.

**"Westlands' Brody Replies," California Journal, VII:9, pp.362 and 392.

Brody: I was still with the governor's office when J.E. O'Neill and a number of other people from Westlands came to me and asked me to join Westlands. I had contemplated going back into private practice, which was my primary concern. They had mentioned that they had a challenging project and I knew it. My whole professional career has been involved in projects where there was some unique problem involved and I have attempted to resolve it.

The problem that they were describing to me about Westlands was not the question of acreage limitation--we'll come to that in a moment--but just the idea of getting the thing going. They were still suspicious of southern California and one thing and another, and they wanted me, I think, to watch over this contract that was going to involve that. These were the matters that they said they wanted me to come to handle.

Now, one thing that I mentioned to them at that point in time as far as acreage limitation was concerned--I knew about the issue taking place in Congress. I said, "If I accept this job, I will come only on one condition--that you not ask me to do anything to subvert or change acreage limitation." They said, "We will not do that." And they kept their word throughout. They never asked me to do anything as far as acreage limitation was concerned, and I can confidently say that I did nothing to subvert acreage limitation or to change it. Now, bear in mind that during the course of the hearings on the authorization, practically all of the large land-owners in Westlands, with the possible exception of Southern Pacific, which at that time said, "We don't know what we're going to do," all of them said that they were willing to sign recordable contracts.

Chall: Now at that time Westlands was a district with X-number of acres of land?

Brody: Yes, with 350,000 acres. That was what was the original Westlands and essentially the land in the San Luis service area which lies east of the canal.

Chall: That all had to be built, so they expected you then to get the contracts, to be the builder?

Brody: Yes, and to negotiate the contract with the United States. The United States was going to be the constructor. [pause] So I agreed to go with them. I anticipated that I was only going to stay there for five years. That was my original plan. I had no great desire to move to Fresno. A number of years previously I had been offered a partnership, before I went with the governor's office, a partnership in a leading law firm in Fresno and I turned it down because I didn't want to go to Fresno.

Chall: Was Fresno too small a town?

Brody: I don't know what it was. I just didn't care for it. But the challenge of this job, as always before, challenges like this have attracted me, and I accepted. I came to Fresno and my first task, as I saw it, was to negotiate a contract with the United States.

Chall: By that you mean whom and what department?

Brody: The Bureau of Reclamation of the Department of the Interior. Now, the reason why it was important was because the United States policy was that they would not start construction of the canal until they had a repayment contract or a contract. I didn't want to hold up construction. The second thing was that the district needed contracts for these purposes: one, for water supply, and two, for the construction of a distribution system which would transport the water from the canal to the individual parcels of land within the district. Normally they would have both been executed as one document, but the planning for the distribution system had not progressed to the point at that time where we could do it. So we went ahead and negotiated a water service contract. That was a contract for water supply. That would give us the water at the main canal, but it wouldn't provide for the construction of the distribution system.

Historically, the Bureau of Reclamation had the power under an act of 1939 to contract for water in one of two fashions. It could enter into a contract with a district under which the district agreed to pay the capital costs, without interest, for a period not to exceed forty years, plus the operation and maintenance costs of the system. Normally, the operation and maintenance would be taken over by the district. That was one method. So there was a fixed capital obligation without interest. That was the so-called Section 9(d) of the Reclamation Project Act of '39 and that was called a 9(d) contract.

The next succeeding section--Section 9(e)--says, in lieu of entering into a repayment contract--a repayment contract was specifically defined in the act as being one by which the entity assumed a capital obligation. This section says in lieu of doing that (in place of doing that), the secretary was empowered to enter into short or long-term contracts for water service or water supply to districts on a water rate basis, on a per acre-foot charge. That charge was to include two components. One was such fixed charges as the secretary might deem proper--leaving it up to the secretary--taking into consideration, without saying that you had to get it back, it said that he bears in mind that there was a construction cost of the project. But the district didn't assume the capital cost obligation. It assumed a water rate charge. This was a charge for service.

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Brody: The second element was appropriate share of operation and maintenance costs as he deemed proper. In no respect did this say that there was to be a capital obligation or that there was contemplated a return of the money within a period of forty years--of the capital cost.

Chall: This was a rate forever?

Brody: It could be. No--for that term of the contract. It might be a different rate with the next contract.

Chall: It takes in both the building and the service.

Brody: That's right. But as an element to consider. A utility doesn't recover the cost of its plant. The utility gets a return on its investment taking into account the cost of that plant, and that's what I think that they had in mind when they did this. Unfortunately, there's no legislative history. But that was the basis on which the \$3.50 rate was predicated on the Friant-Kern Canal. Whatever the rate turned out to be, if it was inadequate, if they felt they wanted to get back capital costs, they could do that in succeeding contracts.

Now, the difference between the two contracts as far as the water users were concerned was--and originally the CVP [Central Valley Project] contractors on the east side of the Valley didn't like the 9(e) concept; it had to be sold to them. But the difference between the two was that under the capital cost procedure, in effect --while it's true the titles of the works didn't pass to the people except by act of Congress--they paid out the project in forty years and it was their project. They had a permanent water right, appurtenant to the land, forever.

Under the 9(e) procedure, all they got was the contractual right to water for a period of years. It might be ten years or forty years, whatever the terms of the contract turned out to be. The government didn't necessarily get back the cost of the project. It got back a rate and it might use that rate to finance other projects if it wanted to. The government got into the water business. We called them utility type contracts.

All right. As I say, the rate was established at \$3.50 on the east side of the Valley, but in the San Luis deal when we went to contract, the cost allocation report which is required as a part of procedure set up a rate at \$7.50 an acre-foot. It described that as the appropriate charge for water. The circumstances had not changed from the time that report was written and the time we were negotiating the contract.

Chall: Was the report written before you--

Brody: Oh, yes, before I went with the district. It was a part of the Westlands authorization process. You had to have a feasibility report in order to go to Congress in order to get it authorized. It is before Congress. Congress was aware of it presumably. I don't know whether it was mentioned in the debate or not.

So we started negotiating on that basis. I might say in the subsequent years, before we were discussing amendatory contracts, the bureau did approach me on the basis of trying to get an escalation figure in the contract and I refused, and I'll tell you why later. But anyhow, the rate was not brought into question really at that point. That was the rate set up in the feasibility report. We didn't ask for any less despite the fact that it was more than twice what they were paying on the east side of the Valley.

Chall: But thirty years had gone by.

Brody: That's right and we weren't objecting to that. All I'm saying is we thought that we could have made an argument to try to get a lower rate and say, "Look, we'll pay a third more than what these other people on the east side are paying." It was a negotiable kind of thing. Certainly on the east side it wasn't predicated on the same kind of basis. So we agreed to go along with that rate. So that goes for the rate element in the original 1963 contract.

When we sat down to negotiate, of course the question of acreage limitation came up, and I had made up my mind to one thing. During the debate, as you recall, I said that Ballis and these other people said they wanted everybody in the Central Valley treated alike. So I said to the bureau, "Look, we want to be treated no better and no worse than anybody else in the Central Valley, in the federal Central Valley Project. We want the same acreage limitation provisions in our contract that you've had in every other contract that you have in the Central Valley Project." And that was done.

Chall: Which was that?

Brody: The elaborate, detailed provisions for the application of acreage limitation--that no landowner could get water for more than 160 acres of his land unless he signed a contract agreeing to dispose of his excess holdings, within ten years, at a price to be approved by the secretary of the interior. All of the details.

Chall: So it was just like the old fashioned one that they still were arguing about?

Brody: No, there was no argument at that point. There was no argument. If anything, the argument was on the other side from the people who were subject to it. They didn't like the provisions of the contract. And another thing they didn't like was the fact that the federal government kept interpreting the contract differently all the time. There was no certainty in the thing.

Let me go back. I negotiated the original contracts in the Central Valley Project and the reason all of the detail was put in the original contracts was because the farmers wanted to know--and they were entitled to know--where they stood with respect to the enforcement of these things, how it was to be applied. The same thing was true here. So there was no--at that point of time--there was no controversy about the provisions, and I'll give you evidence of this. So we agreed on the form of the contract, with that language in it, unchanged.

I was so proud of this fact, that we had not asked for any concessions, and were given no concessions, and everybody seemed to be happy with the acreage limitation provisions of the other contracts--I was so pleased with this--that I sent a copy of the contract to George Ballis, to Paul Taylor, to Don Vial, and to everybody who was involved in this thing. I didn't hear a comment from anyone of them, neither adverse or favorable, and I assumed that there was nothing that they complained about. That was fine.

So the contract was signed. This contract--the water services contract--didn't have to rest before Congress ninety days. It didn't have to be submitted to the Congress. But in any event, they knew what was in the contract or they should have known. I sent them copies of it.

All right, so that contract was in effect and they started building the San Luis Canal. Then came time, a year or two years later, when we were ready to go ahead for a contract for our distribution system. That Section 9(e) that I was telling you about said that when it comes to a distribution system you can only execute a 9(d) contract. The local agency had to assume the capital obligation. It could only be a 9(d) contract, which further delineates the distinction between paying the capital obligation and paying rates for water. They said you have to have a 9(d) contract for that, which didn't bother us particularly. Now, bear in mind that under the main supply works, even where you have a capital obligation, the cost is reduced to the ability to pay. In other words, the power subsidy pays part of it.

In the case of our distribution system, we agreed to pay the full capital cost which at that time was estimated to be \$157 million. Now in drawing up the contract--again we had already agreed to excess

Brody: provisions--I said, "Well, we're not asking for any changes. Let's incorporate the provisions which were in the 1963 contract in this contract by reference." In other words, we would say, "No deliveries of the water should be made from this system to lands which are not eligible under the 1963 contract." And that's the way it was drafted.

Nobody had ever objected in the two years or one year, I've forgotten what the period of time was, between the execution of the previous contract and this one. Now, that contract had to rest before Congress for ninety days under an expressed provision of the law. The authorization act said that contracts for the distribution system shall be submitted to Congress for ninety days.

Chall: What year was this then? The first one was '63?

Brody: This was '65. Am going into too much detail here?

Chall: No, that's all right, go ahead. I have information about a series of hearings at about 1964 so it must have been about then.

Brody: That's correct, but it was signed in 1965. I'll come to that in a minute. So that contract was submitted to the Congress. Now, it had been before Congress for about a month, I guess, when appropriation hearings were coming up. We wanted to get started on building the distribution system right away. With the committee hearings coming up on the budget, if we waited the full ninety days, without any action by the committee, then it would be too late to get money in that year's budget. So I went to the House Interior Committee and I said, "Look, it's still going to have to rest here ninety days, but this has been before you for thirty days (or whatever the period of time was) and there has been no objection. If you have no objection to our contract, let us have a resolution that we can submit to the Appropriations Committee, to say that it appears that there is nothing wrong with this contract and go ahead, it's all right to appropriate funds for it." And they gave me such a resolution.

Congressional Hearings

Brody: I was going to go to the Senate side to do that and all of a sudden I find that Senator [Gaylord] Nelson has called for hearings on this matter, on the contract. It appears that Ballis, or others, had asked for the hearings, asked Nelson to ask for the hearings. This was '65. Now, [Tom] Kuchel was on the committee. Nelson was not.

Brody: They weren't specifically objecting to the terms of the excess land provisions of the contract. They raised some of the most ridiculous kinds of questions about it. They even had water running uphill in effect in this thing. But they said that Congress should not build a distribution system until the people signed recordable contracts. That was the burden of their argument.

Chall: That's right, sign the contracts.

Brody: Before we started construction of the distribution system. Otherwise that they would fail to sign recordable contracts, and the large landowners would continue to pump and the small landowners wouldn't take the project's supply, and thereby the large landowners wouldn't have to sign recordable contracts to dispose of their holdings.

The absurdity of that argument was so apparent. I remember during a recess--Father [James] Vizzard was there--I said, "Father, if you'd walk over to the board here, I'd like to show you what the facts are. These things are not in accord with the facts." He said, "I don't care about the facts. It's the principle I'm concerned about."

But let me give you an example of what they said. Bear in mind that the safe yield of the ground water supply was only 300,000 acre-feet of water. If you pump out more than that, the same condition was going to prevail that prevailed before. The water table was going to go down; water would become economically, if not physically, unavailable.

Now, 76 percent of the land in the district was ineligible under acreage limitation. So if they didn't sign up, you'd continue to have the overdraft no matter what these other people applied for water. Do you see what I mean? It wouldn't be enough to offset that overdraft. The second thing was that they still had to pay for the full amount of water--the district did. The little guy couldn't afford to pay all that cost, so it meant then you'd have to collect by assessment, from the people who weren't getting the water, for the cost of water they weren't going to be using. Do you follow my thoughts?

We're going to get 900,000 acre-feet of water, in 783, and we had to pay for it whether we used it or not. The little guys couldn't use all of it, but we still had to pay for 783. Therefore, we had to pay for it through taxes. We could tax the land--we had to tax the land--of everybody. Therefore, these people were not only not taking water and had to pay more for their water that they were getting from the ground, but they had to pay for that water that they couldn't get.

Brody: Our studies indicated that the cost of the existing supplies of water which were going to be pumped from the ground would have increased per acre-foot by three or four times as a result of this thing. My argument was--and it later turned out to be largely true --not completely true. Well, I don't know whether this was the influence, but I said that the economic compulsion would be there for them; they couldn't get out of signing recordable contracts once they were in the district. But the best thing that could happen to the large landowner would be for them not to build the system. They wouldn't have had to pay for the system they couldn't use too. The best thing that could happen to them would be for them not to build the system if they didn't intend to comply because then they escaped the necessity of paying for that cost. This was one of the arguments that went on there.

But every argument they raised was a specious kind of argument.

Chall: But what was the reason for not having them sign recordable contracts right away?

Brody: Because there's no incentive for a man to sign a recordable contract until the water is available for his land. What's the purpose of him signing at that point? The real incentive is for him to get water for that land, and that would certainly have frustrated the acreage limitation provisions, I think, because they would have resisted. You'll get a revolt in the district and they'll say, "To hell with the whole thing."

Chall: But they knew it was coming. They knew that if they got the water that they would have to sign.

Brody: They would have to sign the recordable contracts. But I don't care what it is. My experience on the Friant-Kern Canal was that the people didn't want to sign contracts for water until they saw the water in the canal. That's not unreasonable. Secondly, they didn't want the terms to start running on these recordable contracts until they could use the water for the full ten-year period. That's another reason for it.

During the course of the hearings, I might say (I was told this afterwards by Senator Kuchel), during the course of the hearings, Gaylord Nelson leaned over to him and said, "Gee, I thought I had another Teapot Dome scandal. I don't see anything wrong." He got up to go out and get a haircut and didn't show up for the next two days. He didn't show up again for several days, as I recall. In any event he did make that statement.

Brody: There was the area in West Plains a water storage district, which was another couple of hundred thousand acres of land to the west of the canal. They were also concerned about the fact that if Westlands got a water supply, then West Plains would benefit from it. That's where water would be running uphill in some fashion and they would pump.

Chall: West Plains would pump from underground?

Brody: Well, physically--you'll just have to take my word for it--it would not occur. Secondly, there is very little water you can get in the ground in Westlands simply because of a heavy layer of corcoran clay that underlies the district. As a matter of fact, it creates a drainage problem. So they were insisting that the two districts be merged into one unit.

Chall: Who were the "they" insisting?

Brody: Ballis and the other opposition witnesses. When I say "Ballis" throughout here I'm talking about them. The Department of Interior was supportive of our position. This is one of the things that made me so angry with the department. They supported our position completely, or rather we were supporting their position. They were the ones to defend it; we weren't. They made a beautiful case. I can show you charts and things that made it so apparent that none of the results that they were concerned about could have happened. I certainly think my theory is valid and certainly the result was there, whether it came from that or not I don't know--that the economic pressures were the one thing that would force these people to sign up, and I pointed it out in terms of dollars and cents to them.

Well, the hearings ended.

The Administration Recommends Contract Revisions##

Brody: As I say, no objections were raised by Congress and we were prepared to go ahead and sign the contract. (This is the distribution system contract.) I was in my office one day and I got a call from the then commissioner of reclamation, [Floyd E.] Dominy, and the then-- I don't know whether he was solicitor of the Department of Interior or whether he was chief counsel of the Bureau of Reclamation, Ed Weinberg. They were in Sacramento and they said, "Ralph, we'd like to talk to you." I said, "Okay." I don't remember if we talked on the telephone or if I went to Sacramento. They said,

Brody: "Ralph, we want you to understand, nobody sent us out here. Nobody asked us to talk to you. But feel that in order to placate these people--the Ballises and the others--we ought to make changes in the contract to suit them."

I said, "In the first place, it seems to me that it's very extraordinary that a third party should be dictating the terms that go in a contract between the United States and the district. Secondly, it seems to me to extremely inappropriate since you people defended this contract and all of its provisions so ably before the Congress, and showed that there was no reason for their concerns, and that there was no justification for it. If you make changes now, it's going to make it appear that your hand was in the cookie jar. Nevertheless, you go back to Washington and you tell whoever it was that didn't send you, and say that, 'Yes, we'll go along with the changes. We may be asking for some concessions if you do, but we think it's a serious mistake to do it, and all it will do is aggravate the situation further. You're in a defensible position. There's nothing here that's untoward and the support for the contract was there in the Congress.'"

Chall: What changes did they want to make?

Brody: Well, I'll come to that. I heard nothing more. I was back in Atlantic City for the Democratic convention [1964]. I was in my room and I got a call. It was from Assistant Secretary [Kenneth] Holum. He was down in the lobby and he said he would like to see me. He raised the same point. He said, "Ralph, these people object to the contract. I think maybe we ought to make some changes." I said, "Ken, if there was something wrong with the contract I could understand it." I told him the same things I told these other people. I said, "Who discussed changes with you?" [pause]

So we agreed to make changes. One was that we would merge Westlands and West Plains. The United States was asking for it, pursuant to these other changes. We agreed that we would take certain steps--and I've forgotten specifically what they were. We weren't going to change the existing drafted contract. What we were going to do was enter an operating agreement. We knew we were going to have an amendatory contract when the two districts merged. So we said we'd have the operating agreement and then put them into the new contract. We said that until 76 percent of the land became eligible certain things would happen. We'd pump a certain amount of water, for example, and we'd collect our money by means of assessment rather than toll charges, trying to make sure that the noncomplying landlords were paying.

Brody: Now, this was unfair in itself because they couldn't get water if they wanted to because of the fact that the system wasn't complete at that point. But there were a number of things that we agreed to. We agreed to take over the operation and maintenance of the Pleasant Valley pumping plant and canal, which we did do.

Chall: Pleasant Valley being where, up in West Plains?

Brody: Yes, the West Plains area. And service to the city of Coalinga also. Anyhow, we agreed to do those things. So Holum wrote a memorandum to the secretary of the interior describing these things and the way he couched it was, "I suggest that you insist these be done before the contract--a condition to the execution of the contract." Well, that was a memorandum. That was the so-called Holum memorandum.

Chall: That's all in the public record then?

Brody: Yes, not only that, but the memorandum was sent to the Congress and was printed as a part of the hearings--in the appendix to the hearings.

In the meantime, I had been talking to the large landholders. You asked me how I feel, and I told you yesterday that I felt that I had done more toward application of acreage limitation than anybody else. I had been working on the Southern Pacific, on Russell Giffen, and these other people to sign recordable contracts, with the result that when the time came for signing the operating agreement we had the 76 percent eligibility which made it unnecessary.

Chall: They signed their contracts?

Brody: They did, just as they promised the Congress. The lands had become eligible, through either sales, but mostly through the signing of recordable contracts, so that it wasn't necessary to implement it further. We went ahead and we completed the merger of the two districts. We took over the operation and maintenance.

Now, we insisted that we be given--and this was in the Holum memorandum--that we be given the additional 250,000 acre-feet of water necessary for the project and at the same price that we got for the rest of Westlands, \$7.50 an acre-foot.

Now, to bring that up to date, one of the things that disturbs me completely is (and I told you yesterday elsewhere), I felt that if there had been a breach of faith here anyplace, it's more of a breach of faith on the part of the federal government, in what it has done, than on the part of Westlands Water District. In every

Brody: respect, these people have complied with every promise they ever made to the federal government. They signed recordable contracts. Congress knew of the condition of the excess landholdings in this district when the project was authorized. Congress knew there were large landholders. They knew what the rate for water was going to be. Congress knew that it would require signing recordable contracts. These people represented they would sign them and they did do it. And then for Congress to come along later and delay the project to the tune of costing the district an added \$150 million for the distribution system, as a result of inflation prompted by the delays of Congress, and for the Department of the Interior (the same Department of Interior, although it's a different secretary) to come along now and say, "We will not abide by the Holum memorandum. We will not give you the 250,000 acre-feet of water. We will not charge you only \$7.50 an acre-foot for it. We will not give you the benefit of the same acreage limitation provisions that were in that contract"--they want you to change the whole thing--I think is a breach of faith that is scandalous. This is what happened in Westlands and to suggest that it is the deviousness of Westlands is one of the most unfair things I've ever heard in my life. There's been no breach of integrity on the part of Westlands in any respect. Where there's been a breach is on the part of the federal government.

Chall: At what point in this whole period of time--it's been nearly twenty years--did they hold up the project? Where is the project now?

Brody: Well, you see the distribution system was being constructed and it took annual appropriations. During the course of that time, there were times when I was back there every year pleading with them to give us more money. But they were conscious of the budget and they kept back. They didn't give us as much as we needed. In some years, the president by executive order froze the funds and wouldn't let them spend them--not because of acreage limitation or anything else, but because of the budgetary picture, which we went along with. We had to. We didn't like it, but we went along with it. But if there's anything dilatory, it wasn't the district that did it and they had to pay for it by the tune, as I say, of another \$150 million.

Now, the opponents, Ballis and these other people, claimed as far as acreage limitation is concerned, that there's been an evasion--

The Question of Evasions of the 160-acre Limitation Law

Chall: Yes, they do attack the Jubil Ranch. Now, that looks like an evasion --on paper.

Memorandum

Oct. 4, 1964

To: Secretary of the Interior
From: Assistant Secretary, Water and Power Development
Subject: Amendment of water service contract, Westlands Water District, Central Valley Project, California

The form of contract to provide water service for the Westlands Water District from the San Luis Unit of the Central Valley Project, California, was executed on behalf of the United States and the District on June 5, 1963, and was later confirmed by court decree. The contract provides for delivery to the District of not to exceed 1,008,000 acre-feet through 1979 and up to 900,000 acre-feet annually thereafter during the term of the contract if joint Federal-State ground water studies indicate the need therefor.

To utilize the water allocated will require facilities to distribute water to the lands of the District and for necessary drainage. Federal facilities to provide these services are estimated to cost \$157,048,000. A contract providing for the construction and repayment was approved as to form on April 23, 1964, and was submitted the next day to the Congress to begin the required 90-day waiting period prerequisite to the appropriation of construction funds. The House Committee on Interior and Insular Affairs approved execution of the proposed contract by resolution adopted May 6, 1964. The Senate Subcommittee on Irrigation and Reclamation held a hearing, but neither approved nor disapproved the proposed contract.

At the hearing I led a group of witnesses representing the Department, Solicitor's Office and the Bureau of Reclamation testifying in favor of the proposed contract. Mr. Ralph Brody, Manager and Chief Counsel, supported the contract on behalf of the District. Senator Kuchel also expressed his support. Witnesses representing the AFL-CIO, Farmers Union, National Grange, and other organizations opposed the contract. Senator Gaylord Nelson also voiced his disapproval. Opponents requested that the proposed contract be returned to the Department for revision to include additional provisions to insure that the benefits arising from the use of project water are not passed on to excess landowners. Concern was also expressed lest the excess landowners maintain control of the District and operate its revenue program to the disadvantage of the small landowner.

The contract provisions attacked by the witnesses have been repeatedly used in other contracts for 15 or more years in the Central Valley Project. They are not new. However, in the Westlands Water District almost 70 percent of the land is in excess ownership and this fact causes me sufficient concern to recommend further contractual provisions to encourage the development of family-sized farms. I have carefully reviewed this matter and suggest amending the water service contract in several respects as a prerequisite to your executing the distribution system repayment contract. The proposed amendments are discussed below and if approved by you, the Commissioner of Reclamation will be authorized to initiate negotiations on these amendments with the Westlands District.

Contract recitals. In two places, recitals state that an additional water supply (project water) is needed to replenish depleted ground water supplies. The recitals are unnecessary and should be stricken. It is anticipated that the addition of project water and the reduction of pumping will improve the ground water situation as an incident to the primary objectives of the project.

Unavoidable clause. This clause provides that a district will not be in violation of the excess land laws if it delivers project water to eligible lands and a portion of the water delivered thereafter unavoidably percolates into the ground water aquifer and is pumped by an excess landowner. The unavoidable clause was inserted in the 1949 contract with the Orange Cove Irrigation District at the insistence of the California Districts Securities Commission as a condition precedent to its approval of the contract. In subsequent Central Valley Project contracts this clause became a standard provision. Previously, during hearings in May and June 1947, before the Senate Subcommittee on Public Lands, Mr. Clifford E. Fix, Chief Counsel for the Bureau of Reclamation, presented a formal statement in which he quoted with approval portions of the Commissioner's letter of April 30, 1947.

The substance of the portion quoted by Mr. Fix is included in Secretary Krug's letter of January 25, 1949, to the Board of Directors of the Orange Cove Irrigation District. Secretary Krug said in part:

"It is my understanding that you were informed (1) that *if* project water should augment the underground supplies of excess land owners * * *, and (2) *if* such supplies should not be distinguishable from project supplies, neither the United States nor the District could, as a legal matter, enjoin the landowner from pumping such mingled waters and, further, that at the present time the engineers of the Bureau of Reclamation know of no way by which project water so mingled with natural supplies could be identified or segregated. I am in accord with this view and it was never the intention of this Department that the situation would or could be otherwise."

I see no reasonable ground for the California Districts Securities Commissioner's insistence on the inclusion of this clause and it should be deleted.

Limit on Water Use. The present water service contract provides a total water quantity limit for the District; for example, 1,008,000 acre-feet annually through 1979, but it does not limit the quantity supplied per acre. This could be done by citing the maximum average number of acre-feet that could be applied annually and providing for adjustment depending on crop pattern. This would be consistent with the Bureau's longstanding policy of limiting water application to reasonable beneficial use.

Ground water use on eligible lands. Plans call for the conjunctive use of ground and surface water supplies. In the long run it is expected ground water levels will be stabilized and the safe yield will be pumped for use on District lands. The District is expected to operate a number of wells to accomplish this objective. Present contractual arrangements contemplate substituting project water for ground water wherever possible during the early years of the contract. The intent was to accelerate natural recharge of the ground water basin underlying the District. Opponents of the Westlands contract contend that a considerable portion of the recharge would come from project irrigation water percolating into the ground water basin. It is this benefit to which opponents to the Westlands contracts most object. Under the circumstances, a scaling down of the share of the irrigation requirement met by project water and the acceptance of a lesser rate of ground water replenishment is preferable. It is estimated that between 10 and 15 percent of the project water applied on the surface will percolate into the underlying ground water and be pumped for use on District lands. To insure that this pumped water made available by the project is utilized on eligible lands, amendments in the contract should require that the District pump an equal quantity of water for application on eligible lands.

Ad valorem taxes. District officials have on several occasions stated that the District expects to vary water tolls and ad valorem tax levies inversely to control ground water pumping as necessary to maintain a safe ground water yield. Taxes on land must be paid by the owner regardless of whether or not project water is used on his land. When part of the revenue to meet project water charges is derived from ad valorem tax revenues, it tends to increase the total irrigation costs of those farmers depending on pumped water. Also, the more ad valorem revenues are applied toward project water, the less that the water toll charge must be for such service. To evidence Departmental endorsement of the procedure, we should seek a provision in the water service contract to assure that ad valorem tax revenues are used to make ground water pumping relatively expensive in terms of project surface water supplies until the lands of the District have been placed under recordable contract.

Municipal and industrial water deliveries. Project plans contemplate that about 45,000 acre-feet annually will be used from the San Luis Unit to satisfy water requirements of communities like Coalinga and to meet demands of the Leemore Air Base. In amending the water service contract, provision should be made for the District to furnish municipal and industrial water to communities and installations for which service is planned. This will require the determination of an appropriate M&I rate. Reclamation advises that the \$15 an acre-foot rate proposed in the 1955 Feasibility Report for the San Luis Unit would be sufficient to meet the costs of the added facilities associated

with the San Luis Unit allocated to municipal and industrial service. This rate would not, however, provide payment for the use of the Delta-Mendota Canal or other facilities previously constructed as a part of the Central Valley Project which may be used to provide service in the San Luis Unit Service area. Therefore, in accordance with recent recommendations of Reclamation, a \$2 participation charge is added and a San Luis canal side rate of \$17 an acre-foot is recommended. In addition, there will be a drainage service charge of 50 cents an acre-foot.

Consolidation of Westlands and Westplains Districts. The proposed contract amendments associated with irrigation water service are expected to reduce annual project water demand in the Westlands District for at least several years. We know that other contractors are anxious to obtain project water service; one of these is the Westplains Water Storage District which borders Westlands on the west. There are advantages to the Government in the combining of these two Districts. For example, it will make ground water "safe yield" determination easier and excess land administration more effective. The water rate question arises because approximately 30 percent of the land in the Westplains District lies above the upper elevation of the Federal service area as conceived in the San Luis Unit 1955 Feasibility Report. In that report an irrigation water service rate of \$7.50 an acre was accepted. This is the same rate used in the water service contract with the Westlands Water District. We would like to hold to the concept of a uniform rate for service to the combined Districts. At the same time it must be recognized that the United States must incur proportionally higher costs for pumps and power to serve the higher lying lands outside the originally conceived Federal service area. It is proposed that the contracting District assume the annual cost of OM&R for the Pleasant Valley Canal and Pleasant Valley Pumping Plant and in the consideration therefor a uniform rate of \$7.50 an acre-foot apply for all water service in the enlarged District. In addition, there would be the 50 cents an acre-foot drainage service charge.

The uncommitted water available from the Federal San Luis Unit for agricultural purposes is sufficient to meet only about 35 to 45 percent of the water needs within the area of the present Westplains Water Storage District. This available water can be contracted on a permanent basis. The additional water required to meet the area's needs is expected to be supplied under a specifically stated contract provision and understanding that such water might later have to be withdrawn to meet prior commitments. These commitments are generally for the proposed East Side Division of the Central Valley Project. It is hoped, however, that withdrawal will not be necessary and that additional project water supplies will be developed on a permanent basis in time to avoid such withdrawal action. Meanwhile, contracting for the delivery of water on an interim basis would be of benefit to the District and the United States. The United States would benefit from revenue received for the marketing of this nonpermanent water supply; the District would benefit from the use of the water and would assume the risk of its withdrawal.

In reopening negotiations to amend the executed water service contract between the United States and the District, the District may seek other adjustments. Because of the possibility of having to again submit the water distribution system contract to the Congress for the required 90-day waiting period, it seems desirable, if possible; to avoid amending that contract.

Your approval of the proposal to amend the water service contract is recommended, with the understanding that execution of the contract will be withheld until negotiations have been successfully completed and until we have reviewed the outcome of these negotiations and have approved the contract.

Approved: Oct. 7, 1964

Brody: I've forgotten now what the circumstances were there.

Chall: Well, it seems that Giffen sold land to a number of people and they were friends, relatives--

Brody: All right, let's go into that. Let's discuss that. Giffen had 42,000 acres of land. He sold every acre of it, except maybe 100 or so acres. Out of the 42,000 acres, he sold 3,000 acres to employees or former employees. Now, I don't know that there's anything wrong with a man selling land--giving the benefit of that--to employees who helped build up that or any employee.

Chall: But they claimed these are not farmers. That these people to whom he sold land are not farmers. They are "paper" farmers and not really [land] farmers.

Brody: In the first place, they are farmers. But let's suppose that they are not.

Chall: All right, because I always see that they are not farmers.

Brody: I know that they are but I don't think that necessarily is relevant. You see what they imply. The implication of what they say is that Giffen somehow retained control.

Chall: That's right. Or the control is not really dispersed.

Brody: Which is ridiculous and untrue. It's an implication they give rise to but they never support it in any respect. Now, these people are getting the benefits of that land--there's no question about that--the people who bought it. Giffen gets nothing out of it. If he did, then I would say, yes, there's a breach. But that is not true.

Chall: But are they farmers living on or near the land?

Brody: No, they're not living on it in some cases; but then there's--

Chall: That's the other aspect of it.

Brody: They are not, but then I'm not so sure that I agree that the law requires that.

Chall: I see. I thought it did.

Brody: Secondly, it had never been--oh, for fifty years--it had never been applied in that fashion.

Chall: Ah, that's where the opposition, where the Ballises and the Taylors are concerned, because they say that the law has never been applied--administratively it has never been upheld--and the residence requirement is part of the deal with respect to the 160-acre limit.

Brody: Well, you see that's his interpretation of the law. Now, the fact of the matter is that there's ample basis for saying that it was not intended to apply in those situations. That's a 1902 provision and there have been many enactments since then. But whether they are correct or whether I am correct is irrelevant at this particular point in time. Until or unless a court says so, then you can't say at this point. I think it's sufficiently uncertain to say that.

Chall: Until it goes to the Supreme Court--this issue?

Brody: Yes, but you can't censure Westlands or the people in it for adhering to the policy that had prevailed for over fifty years. When they embarked upon the thing, nobody contemplated, nobody ever said anything about residency applying.

Chall: Really?

Brody: No! No one had ever done anything like this, elsewhere in the Central Valley Project or here. If Ballis was so conscious of this thing, why wasn't he raising it thirty years ago in the rest of the Central Valley?

Chall: Well, I'm not so sure that he wasn't.

Brody: No, they weren't raising the issue. If the issue had been raised in the same fashion then, we would have known where we stood in Westlands. But it was never raised as an issue. Nobody considered it as applying, neither the government nor us. So it wasn't a question of evasion. It was not an element to be considered.

Now, let's go back to Giffen. So the law and the contract as it had historically been administered and as I believe the law provides, does not require you to sell it to anybody who is necessarily going to farm that land himself. It's to require you to break up this large landholding, that's what they wanted to do, and diffuse the titles so the opportunity was there.

Don't forget--and this is something I kept telling these people--these large landholdings did not grow up overnight and they're not going to be broken up overnight. You can't tell me that when you have 42,000 acres of land formerly owned by one man and it's

Brody: transformed very quickly into over 300 ownerships, that that isn't a step in the direction of getting it out in the area where you want. And it has to happen by evolution, not by revolution. That was an important thing to take into account there.

Now, let's go back to the 3,000 acres. I see nothing wrong with a man selling it to employees. Now, 1,500 acres were sold to relatives out of 42,000. And again, I see nothing wrong with a man selling the land to his relatives so long as it is a bona fide transaction. I don't know why you should make ineligible the brother or the son of a man who owns land, anymore than you do a stranger. Now, the land was sold to the relatives on the same terms as was sold to everybody else. But when you take the infinitesimal part of this out of this over 42,000 acres, look at the significance of the disparity of the figures. It's just like that twenty acres I was telling you about owned by the Japanese.

Another thing I want to mention--and this goes to the question of good faith in the arguments they raise--they keep talking about how the large corporate farms are getting the benefit of the project. Everyone of those corporate farms they're talking about has signed recordable contracts agreeing to dispose of their land. The corporate farms were there before the project was even conceived. The large landowners were there. Congress knew they were there. Now they come along and they're saying, "Well, we want you to break up your holdings." There has to be an incentive for the man to break up his holdings, and that incentive was giving him a ten-year period within which to use the water while he was disposing of his holdings or pending disposition of his holdings. Now, that's the benefit that's going to the corporate landholders.

Chall: So what time is that supposed to all be done in?

Brody: Now we come to that point. Many of them have expired already.

Chall: The ten-year period?

Brody: Yes. And many of them would have sold their lands in this ten-year period. But Mr. Ballis brought this to litigation which enjoins the sale of the land and precludes them from selling it. And the secretary of interior issued regulations holding up the sales--not approving the sales of these lands--pending issuance of new regulations by the department. So these people, on the one hand they criticize them for [using] the project water. On the other, they precluded them from selling it.

Chall: Why have they enjoined them?

Brody: The lawsuit was brought because they said the regulations of the secretary had not been issued for the sale of the land. That's another interesting element. I mentioned this to Ed Weinberg. They said there were no regulations--these people. I remember from the beginning of the contract negotiations, I pleaded with the Department of Interior to issue regulations so people would know further how they stood on the project in terms of acreage limitation. Ed Weinberg, I remember, he characteristically put his feet up on his desk and sat back and said, "We don't have time" or "it's not a good idea" or something like that. I spoke to Secretary Udall about it and he agreed with me but nothing was ever done about it. I'll never forget in the later hearings held by Nelson, the second more recent ones--

Chall: In about '72.

Brody: Yes. Weinberg and Udall both sat at the table and testified, "By golly, there should be regulations issued on this thing." But they themselves failed to do [anything] and it was as if we were part of a nefarious plot for not having them when in reality I was the one who was pleading with them for regulations. So I could go on and on about this.

But the point I want to make in terms of accomplishment in acreage limitation, you've had more land put under recordable contract, which is no small step. When a man gives the power of attorney to the secretary of interior to sell the land for him if he does not do it himself--you have more land put under recordable contract in Westlands Water District than has been put under recordable contract in the entire history of reclamation law in all of the other projects cumulatively. You have had more land sold pursuant to recordable contract and made eligible. Secretary Cecil Andrus testified within the last month or so there has not been an illegal sale or illegal transaction in Westlands, that there had been more land sold than cumulatively had been sold in the entire history of reclamation law. They've increased the number of owners of land in Westlands Water District by four times, as I recall, or more. Now, admittedly all are not farming the land; admittedly, they are not. But you certainly are breaking up the land monopoly. I might say whereas when they started out there was only 24 percent eligibility of land in the district, when I left that district, within the areas where the distribution system was completed (in other words, where they could get water), we had over 96 percent eligibility. Now, the people were complying and were meeting the requirements of the law. But all of this is so distorted in this whole picture. [pause]

There was never a decision made for the benefit of Westlands. Every decision that the department has ever come down with has made things more strict.

Chall: Well, there are all of these other matters in here [the article] and I don't know whether you want to discuss them.

Brody: Yes, I'd be happy to go into them with you if you want to take the time. But the point is that I don't think--there was one transaction that got to court, the Bonadelle case. But in that case, the man was found guilty, but he wasn't found guilty of violating acreage limitation. He was found guilty of misrepresenting to the federal government, to making mistatements.

Chall: What was the name of that person?

Brody: It was called the Bonadelle case. What the man did or was accused of doing was using straw men in the purchase of land.

Chall: Yes, I think I have read about that one.

Brody: I want to go back to this business about what happened at the time the project was authorized. You see, the impression that even exists in Congress now--that Ballis has succeeded in creating--is that the large landholdings grew up as a result of the project. They didn't. They were there as the project came along and they're being dismantled as a result of the project.

This is why I get so irritated when people call me a turncoat. In reality, I think that I've done more to accomplish the objectives of the law than they ever thought about doing. But again, I go back to the statement I made yesterday to you. If you analyze what is happening in terms of the statements Ballis makes and these others (and I testified to this, in fact, one time), that they're more interested in hurting the big guy than they are in helping the little guy. They keep talking about "the benefit the big guy is getting" and all these other things. They don't talk about what can be done for the little guy or what is being done.

Chall: Do you think that anything is actually being done for the little guy or can be because of the cost of the land now? Could somebody come in and buy 160 acres?

Brody: Oh, sure--assuming that 160 acres is adequate to support a family. The price of the land isn't--look, let me tell you something. The price for land that was approved in Westlands Water District was very, very low. It was higher than what the people paid for the land, I mean the original purchase price. The price that was charged for the land (it was approved by the secretary) was almost identical with the price for land in the Pleasant Valley Water District, which is not a part of the San Luis project, which has the same water conditions that Westlands had without the project.

Chall: It was supposed to be a pre-water price.

Brody: Yes. It really isn't a pre-water price because it can't be that. It's the present value less that added benefit of the project.

Chall: It has been stated that there is a so-called Iron Triangle--I don't know whether you've seen that statement used--the Iron Triangle of western congressmen, western farmers, and the bureaucrats, the bureaucracy of the Department of the Interior particularly with respect to reclamation--that this Iron Triangle is so strong and that it has always supported whatever has gone on in the West with respect to getting water and retaining some of the power of the large landed interests.

Brody: I haven't heard that, but I don't believe that is true. I'll tell you why. If you look right now, there are attempts being made to change acreage limitation in the Congress. There's a great divergence of view among the various farming areas of the country with respect to that. If you look also, you'll find that California virtually stands alone in terms of being opposed by other states in terms of the smaller farmers not liking large ownerships and secondly, because they feel that California gets a lot of the money that is involved. I just don't believe that's true and I don't think there is anything to support it in terms of a cabal or whatever it may be on this, because I don't think that farmers can get together that well. I don't know if you've ever had any experience with it, but trying to get a bunch of farmers together to be united on any issue is very, very difficult.

Chall: Even in California?

Brody: Yes.

Chall: I want to go back a moment to the 9(d) contract. In your opinion, after forty years, could the water users then establish landholdings larger than 160 acres and still get project water? What is the interpretation of that contract since it was established and during the years it has been used by the bureau?

Brody: It has always been considered that when construction costs have been repaid the limitations would no longer apply.

Relationships

Chall: I know that you worked with a board of directors in Westlands. Were there any particular members of this Westlands Water District--that is, the landowners and attorneys--that you were particularly close

Chall: to in terms of working out some of these problems? And Congress, too. I'm interested in knowing something about the relationships.

Brody: Let me just say this. As far as what I said before, that Westlands had never asked me to do anything to subvert acreage limitation. If any criticism--and I don't think there is--but if any criticism is to be leveled against Westlands for what is contained in the contract, as far as acreage limitation is concerned, or what was done under the contract in terms of district responsibility--I say, if there is any criticism to be leveled it should be leveled at me because the board left up to me, to a large extent--the largest extent--what was to go into the contract, and it kept its faith with me on that matter of not getting this acreage limitation deal.

I think they had confidence in me as an administrator. Therefore, I just wanted to say that if any criticism should be leveled, I'm the one. I don't think any is merited because I think we did a good job with this thing in terms of the law, and what the law intended, and what it required. They may not have liked it. They didn't like it but they went along with it because they had given their word.

This recurred many times in meetings. Russell Giffen was president and he was a strong president. He said, "We gave our word that we're going to sign recordable contracts and we're going to do it. We made pledges when we took this project on and we're going to abide by them." He and I were the ones primarily, I think, who interested SP [Southern Pacific] for which they may not be grateful today because of all the problems that it has introduced for them. I don't blame them in view that there has been a breach of faith that's gone on on the part of the federal government and the criticisms which have been leveled against them. But they did sign recordable contracts on all the land that was of agricultural value. There's about 300,000 acres of their land which is of potential commercial value which they intend to hold onto--along freeways and whatnot, not for farm purposes.

##

Brody: Russell Giffen would talk to you about all of this if he had confidence in the fact that you're not going to distort. He doesn't like the press. He has had a bitter experience with them in terms of what he has said to them and what they've printed. But Russell Giffen was one I worked with and J.E. O'Neill who died shortly after I came into Westlands.

Chall: He was the power behind the original project.

Brody: I think Harry Baker is another. But Louis Robinson of the Boswell Corporation, who has since died, was a very, very knowledgeable man in the water field and a man who--all these people that I have just mentioned had something more than their own personal welfare in mind. They were interested in what was good for the community as a whole. I don't care what anybody says about this. I know this to be a fact.

Then in the federal picture, B.F. Sisk, Thomas Kuchel (former Congressman Sisk and former Senator Kuchel). I suppose you want living people.

Chall: No, they need not be living.

Brody: Do you mean that I worked with in Congress?

Chall: No, that you worked with in Westlands. You said you had to go back every year for appropriations and all of these hearings.

Brody: On behalf of Westlands?

Chall: Yes.

Brody: Oh, yes, they're almost too numerous to mention in Congress--Mike Kerwin, a congressman from Ohio who was on the Appropriations Committee; Wayne Aspinall, who was chairman of the Interior Committee; Senator Clinton Anderson of New Mexico; Senator Scoop Jackson; Senator Fritz Hollings of North Carolina. These are all people--and there are many, many more.

Chall: There were people on appropriations--

Brody: On appropriations and the interior committees. On the House side, there was Wayne Aspinall, Clair Engle, of course, Congressman [John] Saylor, Congressman "Bizz" Johnson, Congressman John McFall, Harlan Hagan. Let's see--there was a one from Florida but the name has escaped me now. I was very close to a lot of those people. You see, a part of it too was I was active in Democratic circles and I got to know a lot of people.

Chall: Were you active in Democratic circles in the Fresno community then? Enough to be a delegate to the national convention?

Brody: Yes. Well, I wasn't that active.

Chall: Did you just go back as an observer?

Brody: No, I was an alternate. I was appointed by Sisk. But in Sacramento I was active. I was active in the right-to-work issue. I was with labor. As a matter of fact, I was once in the senate race. I was going to be in it when Al Rodda ran.

Chall: Oh, the state senate.

Brody: That was when I became disenchanted with the CDC [California Democratic Council].

Chall: They didn't support you?

Brody: No, what happened was that Senator [Earl] Desmond died and there was going to be a sudden-death election with no primary. I had been active--I had supported labor on the right-to-work issue, and had made speeches and one thing and another, and I had been active a little bit, not very active in political circles but I was reasonably well known. Some of the women's clubs and other organizations came to me and asked me to run for the office. I wasn't particularly interested. I've always felt that any man who has ideals, if he runs for public office, soon after he's elected he sublimates his ideals to the concept of perpetuating himself in office and I didn't want to do that.

Anyhow, I finally said, "Okay, I'll run." Then Al Rodda announced that he was going to run and three other candidates. Well, some representatives from the CDC came to me and said, "Look, we recognize that you're the most able candidate but Al Rodda has been such a loyal party worker, we think you should withdraw in his favor." I said, "Look, the CDC is supposed to represent good government." Oh, and they were concerned about, with so many Democratic candidates--there was only one Republican--they would elect a Republican. So I said, "If you had come to me and said to me that Al Rodda was the better man, and asked me to withdraw in the light of this, I might have considered that. But for you to come and tell me, noble organization that you are, that you want the better man to withdraw, it doesn't sound right to me. So I'll make up my own mind on this."

Well, they went away. They came back later and they said, "Suppose we have an endorsing convention. Will you agree that if you don't get the endorsement that you'll pull out of the race?" I said, "Look, you're asking me the same thing. What you want is for me, in order to solicit your endorsement, to agree to withdraw under those circumstances. I won't tell you what I will do. I'll make up my own mind at the endorsing convention. I'll come to your convention. I'll make up my mind whether I'm going to withdraw afterwards." [chuckles]

Brody: We went to the convention and I lost by half a percentage point. It was very, very close. But I knew darn well--I knew Al wouldn't drop out. This had nothing to do between Al and me, we're friends. I knew that Al wouldn't drop out. He was a very stubborn guy. I knew I could get the endorsement of labor. I knew I could get the endorsement of the Sacramento Bee. But I also knew that while I could beat Al, that with all five of us in there it was very likely that the Republican would be elected and he was a no-good candidate if there ever was one. So after the endorsing convention I did withdraw.

But I've always been upset with the CDC. I remember Roger Kent came to see me and others. I said, "You people, it seems to me, are as two-faced as can be." I had been somewhat active in that organization. I don't think Alan ever came to me about it. I don't remember whether he did or not--Alan Cranston.

Now that I look back some of these things are an interesting part of life.

Chall: They really are. Could I ask you when did you leave Westlands?

Brody: Two years ago last November.

Chall: November '77?

Brody: Yes.

Chall: Would you tell me why?

Brody: Why?

Chall: What happened? Did something happen at Westlands?

Brody: No, no. Well, there was one thing that happened that was incidental. More than anything else, it influenced me to some extent. But not--I had made up my mind. I had planned--it had become a grueling job. I wanted to retire while I could still enjoy it. I had worked hard all of my life. Whenever I had a job I always dedicated everything to it. I wanted to travel, I wanted to do things. It had disrupted my family. I lost my family as a result of working, and so many things, that I wanted to get out and enjoy life.

When I first made up my mind to retire it was around '63 or '64. I was going to retire and they asked me to stay on another year. So I did. But I said, "At the end of the year I'm going to retire." [pause] During the interim in that year--Oh, I might say when I got ready to leave [1977] they asked me to stay on but I refused to

Brody: do it. I'll tell you why I refused to do it in a moment. Anyhow, in that year, some of the other members--one man died and another man resigned and one thing and another--the old composition of the board changed somewhat. A new president of the board had come on, the present president.

Chall: Who was that?

Brody: His name is Jack Stone.

Chall: Does he represent some--

Brody: No, he represents himself. He has fairly substantial holdings. My appraisal of Mr. Stone is that he reminds me of a man who said he once had an uncle who played piano in a house of prostitution for ten years before he found out what was going on upstairs. Anyhow, Stone was going back to Washington and talking all over Washington about how Westlands should be paying more for water and doing things that I felt were not in the best interests of Westlands and certainly not consulting me. It seems to me that he should have talked to me about these things before he went back. So finally I decided--I didn't think I could continue on with him much longer. But the main reason I wanted to get out, to get back to your question, was that this whole thing had become such a nervous strain on me. That's the reason that I didn't want to stay on a second year, because it was a considerable strain. Again, I wanted to get out and enjoy life a little bit before I completely collapsed and I felt I was getting nearer a kind of collapse from such a sense of frustration.

But then when this happened with the president of the board, they asked me to stay on even longer, a few months longer. I said, "No, I think I should say to you that if the president of the board continues to do with the new man what he did with me, you're going to have difficulties in the future." Well, that didn't endear me to him either. To this day he doesn't like me very much. I have been under contract with them, as a consultant for three years--for two years--it's a three-year contract and they've never asked me for anything. I think they're going the wrong path.

Chall: Do you want me to turn the tape off?

Brody: Yes. [tape interruption]

Westlands and the Current Debates in Congress, 1979-1980

Brody: Senator Nelson would have abandoned the hearing process after the first days he held hearings in Washington I'm confident because Gaylord Nelson's interest in continuing hearings is in direct relation to the amount of publicity he gets out of newspaper coverage, and he got very little out of that in Washington until [Governor Edmund G. Jr.] Brown announced he would appear at the hearings in Fresno. As a result of that--Jerry Brown's decision I'm talking about--Nelson agreed to hold hearings out here and they got a lot of coverage and publicity.

As I mentioned to you yesterday, one of the curious things about this whole situation is that Jerry Brown was down here as a staunch advocate of acreage limitation and insisting it should be applied in Westlands, when he was making no effort to do anything at all in terms of pursuing a small farm policy in the state service area. But above all, he was down here talking about the federal law and the continuation of that policy, but now that legislation is being considered in Washington (contemporaneously, I might add, during the presidential campaign) Brown is not back there, and no representative of Brown is back in Washington, making any suggestions as to what the law is, or should be, or whether it should be retained in its present form or not.

Chall: What do you think brought to a head all of this legislative activity within the last year or so? Is it partly the court cases having to do with residence requirements that are finally getting up to the Supreme Court, or is it the administration, or what?

Brody: No, I think what happened was that after trying to for years, Ballis got a platform from which to speak, and as a result the press took these things up. For example, the San Francisco Examiner ran that series of articles. I might point out that I sent to the Examiner a list of thirty-nine misstatements of fact in those articles and listed the actual facts along side of them. I sent it to every other publication in the state of California. Not one of them mentioned these misstatements of fact. But nevertheless, the publicity that he got and everything else created a public atmosphere. You became familiar with it. You wouldn't ordinarily have done so. Other people--and this spread. There was some national press on it. It was a complete distortion of the facts as I see it--but nevertheless. And this is what concerns me and I said something before about the visceral actions of the public--and that's exactly what is happening on this issue. But in any event, it achieved a kind of conflagration idea.

Brody: The secretary of the interior then felt the legislation was necessary, so they started to hold hearings. But it all emanated as a result of what took place in Westlands. The strange part about it is that it all grew out of the fact that Westlands was complying, not because they weren't complying.

Let's look at what happened here. First, Ballis and Taylor insisted that there should be no contract unless recordable contracts were signed and that nothing would happen--the law would not be complied with. But they were proven wrong on that. Secondly, they came along and they say there should be no construction because they wouldn't sign recordable contracts. They were proven wrong on that. But their ultimate objective was getting the break-up of the large landholdings. That's what they said. Then when that is all done and Westlands did all of these things--the land was indeed committed under recordable contracts and much was broken up--then they change their line of attack because that is no longer a valid argument for them. They say, "Yes, it's signed up but they're selling to the wrong people. We don't like the people that they are selling to." That's the net effect of what they were saying. "We don't like the people they are selling to." If you put to one side the residency--even there you don't, because a good many of the people who bought the land are resident farmers. Most of them are farming it. Most of them fit the definition of--

Chall: Of a small farmer on the land?

Brody: Within the fifty-mile radius.

Chall: So basically then, as Taylor and Ballis have been saying, the law has never been--or the ideals, as set forth in 1902--have never been totally followed or administered by the Bureau of Reclamation.

Brody: As they construe them.

Chall: And that's what the court cases are all about?

Brody: They've never said that the law has been violated. They said, "The intent of the law has been violated"--and what they say is the intent of the law.

Chall: So is it a good thing, do you think, now, that all of this is coming to a head, that if there is going to be acreage limitation that it be looked at differently? I'm thinking of S 14 which is just so different from anything in the 1902 law. What about S 14? Can you make some comment about that?

Brody: Well, it seems to me now, there's no review really--only indirectly--of legislative policy and the legislation that is being suggested. What they are doing is making proposals and then trying to adapt a policy to suit that legislation and that's a bass-ackwards way to go about legislating, I think.

Chall: So we really aren't changing anything; still we're changing a lot of things?

Brody: Oh, no. We're changing. We're making a lot of changes but we don't know what they are. We don't know what policy changes we're making. We know we're making mechanical changes. To me ideally, the legislative process envisions that you only have laws in order to accomplish a kind of policy. But in order to draft that legislation, you have to know what that policy is going to be. The law is in furtherance of that policy. That isn't what happened.

Chall: Do you think they're just reacting to a lot of pragmatic considerations and pressures?

Brody: And what people consider to be possible. You'll end up with a kind of policy, but whether it's the policy you wanted or not is another question. A guy says, "I want leasing to be permitted." All right, you may end up with the leasing. Then you're saying that you don't necessarily want resident farmers. Now, personally I believe that leasing should be permitted.

You see, one of the things is that if you talk about this in terms of subsidy, it seems to me that it's wrong to say that only a resident owner can get water. Because if the subsidies are being provided by the taxpayers as a whole, shouldn't at least some consideration be given to the fact that maybe a guy in New Hampshire, who is helping to pay the cost of this project, should be able to get something by way of return by owning the land or leasing it off to somebody? Do you see what I mean? I say, "Let's find out if that's the kind of policy--"

Chall: From the standpoint of economics--farming economics--it might be all right. But if you take the stand that you want small farmers on the land then you've got a whole other matter to consider.

Brody: That's exactly what my point is. I'm saying, let's look at these things and see what is going to be our policy. Let's not say it's based upon the equitable distribution of subsidy if our objective is going to be to establish holds for farm families.

I'm not confident that that's the most desirable thing for this country in the present picture. I could see it in a frontier type of economy. I could see it perhaps in Australia or Western Canada,

Brody: but I'm not so sure [of it] in the United States today. Don't forget that when you had farm holds for farm families, the man raised the food for his family on that farm, the man supplied his own equipment and his own labor, and he clothed his family with that farm. Today, on 160 acres or a small farm, a man has to get some other source of income in order to augment those things. He has to go out and buy his clothing for his family; he has to go out and buy a good deal of the food; and that makes a substantial difference.

You see, to me it's not so much the desirability of small farms, as looking at it from the standpoint of the undesirability--in what respects are large farms undesirable? No longer--to me, at least--is the concept of small farms necessarily desirable for our country. But I do consider that there may be objectionable features to the large farming operations and if that is the case, let's attack those problems.

Chall: By some other means?

Brody: By something else. Maybe this is what we have to come up with. But at least let's look at those problems and attack them for what they are, not to use the sham of saying, "Well, we think this is desirable."

Chall: What about the idea that has been proposed that there should not be anymore subsidies for water, for land, that water should pay for itself or just about? At least pay more than has been paid up to now, in the contracts?

Brody: Well, I can only answer you by saying I don't think you burn down the barn to get rid of the rats. The question is whether you should abandon all governmental subsidies or none.

Chall: And not just water?

Brody: Yes. I think if there is justification for a subsidy from government, then I think it exists with respect to water as well as it does somebody else, someplace else, but query whether in all instances the subsidy is merited in the case of water or anyplace else.

Chall: Or how much subsidy rather than subsidy per se.

Brody: Yes, that's right. I think it's ridiculous to say we should cut out all water subsidies. Maybe you do end up that way, but I'm saying to approach it from that standpoint is wrong. I think you say, "Let's look at each project and see whether a subsidy is required."

Chall: Do you think the Bureau of Reclamation can do that? Do you think the way it's set up that they would ever be able to take a look at it case by case? As you said before, when you asked them to set down general regulations, to consider broad policies, they said they didn't have time. Would they have time to look at anything on a case by case basis or would they care?

Brody: Do you know what the law not provides and what actually occurs? The law, since 1926 maybe or 1939 at least, provides that before the secretary can construct a project, he must determine the cost of the project. He must divide that cost among the various functions. He must ascertain what revenues he might reasonably receive from power, let's say, which may be more than the share of the cost. He must see how much of the project cost is attributable to flood control, which is completely written off, so you put that off to the side with the power revenues.

Chall: And recreation.

Brody: Then recreation and one thing and another. Then you come down to M and I uses and you see how much of that cost you can get back. Then you come to irrigation and they say, "How much are the farmers able to pay?" I think that's reasonably ascertainable. You put that here, and you add all of those up--the income on this side. Now, theoretically, assuming that the irrigation cost is more than what he is able to pay, some of the revenues from power will be-- So you add all of these up. If the total you get is equal or exceeds the actual cost of the project, then you have what is determined to be a feasible project, and the secretary is authorized to construct that project without going to Congress. That's the law. If you add it up, and the cost exceeds these revenue figures, then he cannot construct that unless he goes to Congress because Congress has to write off that additional cost.

Now, as a practical matter no project is ever started even though the most favorable feasibility report is done without going to Congress and getting approval because Congress has insisted on that. So in the last analysis the bureau is not necessarily making that complete determination. There is a review of it in Congress and people who want to attack it, can do it at the time of the project's authorization. They can say that the farmers are able to pay for it. There is a review process.

Chall: How does it work?

Brody: Well, I don't think people have taken an interest in it up until this point in time. I think that maybe they will now. I don't know. You see, the bureau establishes its own criteria in saying you take the

Brody: farmer's payment ability and you leave him an incentive. In other words, you take out these water costs and everything else you leave him something over or else there is no incentive for him to engage in a farming operation.

Transcriber: Michelle Stafford
Final Typist: Matthew Schneider

TAPE GUIDE -- Ralph Brody

Interview 1: January 23, 1980

tape 1, side A	1
tape 1, side B	11
tape 2, side A	19
tape 2, side B	31
tape 3, side A	36
tape 3, side B	45

Interview 2: January 24, 1980

tape 4, side A	57
tape 4, side B	67
tape 5, side A	76
tape 5, side B	86

INDEX -- Ralph Brody

- acreage limitation, 22-24, 46, 49, 57-62
 - in Westlands Water District, 68, 71-72, 74-85, 91-96
- Allen, Bruce, 20, 21, 38
- Andrus, Cecil, 83
- Baker, Harry, 87
- Ballis, George, 22, 57-58, 72-73, 76-77, 79, 81-82, 84, 91
- Banks, Harvey, 3-9, 21, 37, 39, 42-43, 52-53, 63, 65-66
- Barry, Frank, 58-59, 61
- Brody, Ralph,
 - and the Central Valley Project contracts, 30
 - and the Democratic party, 87-89
 - and the theory of working with others, 26-27
- Brown, Alan, 38
- Brown, Edmund G., Jr. (Jerry), 23-24, 91
- Brown, Edmund G., Sr. (Pat), 1-10, 15, 21-23, 25, 32-33, 35-37, 45-46, 49, 53
- Bureau of Reclamation. See United States Department of Interior
- Burns, Hugh, 18-19, 27
- Burns-Porter Act, 12-14, 16-18, 38, 40-49
- California Democratic Council [CDC], 88-89
- California State
 - California Water Commission, 62-67
 - Department of Water Resources, 63-65
- California [State] Water Project, 1959-61, 1-67
- Carr, James, 5
- Central Valley Project, 30-31, 71-72, 81
- Champion, Hale, 7, 36
- Christensen, Carl L., 24
- Davis-Grunsky Act, 17, 29-30
- Davis, Pauline, 28-29
- Day, Edward, 38
- Dominy, Floyd E., 76
- Dutton, Frederick, 7, 36, 46-47
- election campaigns, state
 - 1960, Water Bond Issue, Proposition 1, 28, 37-42, 44-46

Farquhar, W.C., 39
 Fisher, Hugo, 25, 43
 Friedman, Nathan, 41

Gianelli, William, 7-8, 15, 42-43
 Gibson, Luther, 25
 Giffen, Russell, 17, 80-82, 86
 Goldberg, B. Abbott, 32-33, 57
 Grody, Harvey P., 3-4, 19-20, 25

Herrington, George, 38
 Holum, Kenneth, 77-78
 Holum memorandum, 78-79
 Hotchkis, Preston, 38

Jensen, Joseph, 28, 39
 Johnson, Charles, 7, 9

Kern County Water Agency, 50-51
 Kuchel, Thomas, 73, 75

labor unions and California Water Project, 41-42, 45
 Lindsay, Francis, 7
 Los Angeles Chamber of Commerce, 41
 Los Angeles Department of Water and Power, 41

McAteer, Eugene, 25
 McDonald, Grace, 48
 media
 newspapers, 37, 45, 67, 91
 Mellon, Thomas, 38
 Metropolitan Water District, 18, 34-39, 41-42, 49-50, 52-53
 Miller, George Jr., 26, 29
 Morris, Samuel, 33-34

Nelson, Gaylord, 73, 75, 91
 Newhall, Scott, 37

O'Neill, J.E., 17, 19, 68
 Oroville Dam, 15
 O'Sullivan, Virgil, 22

Peripheral Canal, 43
 Porter, Carley, 18-19
 Poulson, Norris, 28
 power, electric, 23, 48-49

Rattigan, Joseph, 24
 Republicans and the California Water Project, 7-8
 Richards, Richard, 43
 Robinson, Louis, 87
 Rodda, Albert, 24, 88-89

San Luis Reservoir Joint Service Contract, 22, 49, 56-62
 Skinner, Robert A., 34, 50
 Stone, Jack, 90

Taylor, Paul, 22, 57-58, 72, 81
 tidelands oil funds, 11-13, 16, 17, 20
 Tillman, Gilmore, 40-41, 43
 Towner, Porter, 53

Udall, Stewart, 58-59, 83
 United States
 Department of the Interior, 76-83, 95

Vial, Donald, 72
 Vizzard, Father James L., 74

Warne, William, 5, 21-22, 53-54, 60-61, 65
 Weinberg, Edward, 76, 83
 Westlands Water District, 17-18, 23, 56-62, 67-96
 Williams, J. Howard, 25-26

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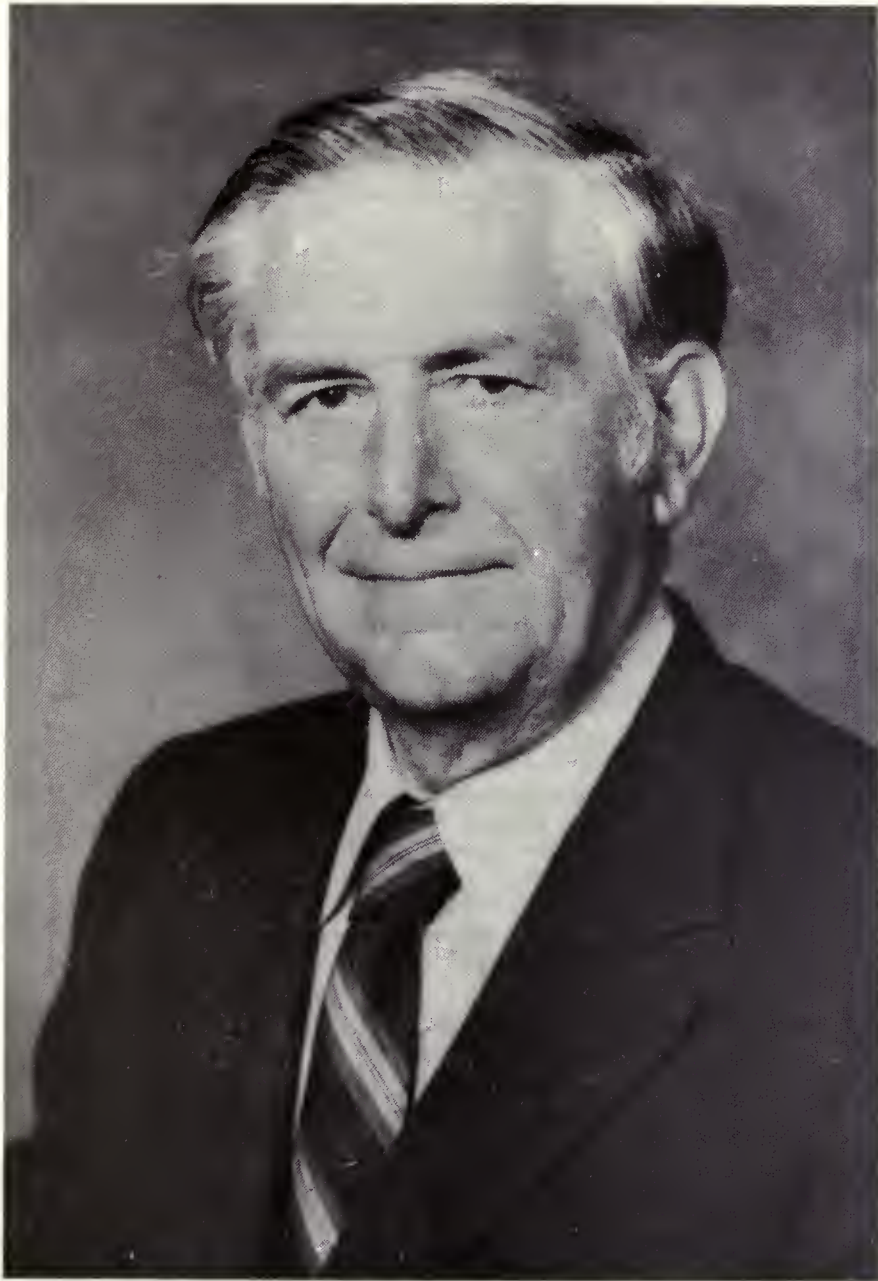
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William E. Warne

ADMINISTRATION OF THE DEPARTMENT OF WATER RESOURCES,
1961-1966

An Interview Conducted by
Malca Chall in 1979



WILLIAM E. WARNE

TUESDAY, MARCH 12, 1996

OBITUARIES

William E. Warne

William E. Warne, a former director of California's water resources department, has died at the age of 90.

Mr. Warne died Saturday of pneumonia at a convalescent home in Menlo Park.

He was appointed to the water resources department in the 1960s by Governor Edmund G. (Pat) Brown after serving as Brown's agricultural director.

Mr. Warne oversaw the state's huge water project, a 444-mile network of aqueducts and dams designed to bring water to Southern California.

A native of Seaford, Ind., Mr. Warne grew up in California's Imperial Valley, where he worked for newspapers in the 1920s. He also worked for the Associated Press as a specialty writer focusing on agriculture and water issues in the West.

In 1932, he went to work at the U.S. Department of Interior and rose to assistant secretary overseeing the management of irrigation and power dams on the Missouri River, and also the Hoover Dam, the Grand Cooley Dam and the Bonneville Dam.

In 1952, President Truman appointed Mr. Warne to head the foreign assistance program in Iran. He also directed programs in Brazil and South Korea.

Mr. Warne is survived by three brothers, two daughters, a son, six grandchildren and three great-grandchildren.

Associated Press

TABLE OF CONTENTS -- William Warne

INTERVIEW HISTORY	i
BRIEF BIOGRAPHY	iv
I BACKGROUND IN WATER MATTERS	1
California Water Issues, 1932-1951	1
Economic Coordinator, Korea, 1956-1959	5
A Visit with Governor Edmund G. Brown, Sr., 1958	6
Director, Department of Fish and Game, 1959	10
Director, Department of Agriculture, 1960	24
II DIRECTOR, DEPARTMENT OF WATER RESOURCES, 1961-1967	36
The Appointment	36
Organizing the Department to Build the Project	41
The Staff	47
Keeping Track of the Building Program	51
Financing the State Water Project	60
Some Revisions in the Plan	66
The Drain	67
Electric Power	70
Desalination	75
The Need to Complete the State Water Project	76
The Legislature and the Project	81
The Kern County Water Agency	86
The Metropolitan Water District	94
Relationships with the Associations of Water Users	101
Plans for Augmenting the Flows of the Sacramento River System:	
The North Coast	103
The Pacific Southwest Water Plan and the Colorado River	114
Changing Views of Water Needs and Uses of the Colorado River	123
Relationships Among State Staff Personnel	128
The San Luis Reservoir and the Joint-Use Contract: The	
160-Acre Issue	130
The Significance of Governor Pat Brown's State Water Project	141
TAPE GUIDE	143
INDEX	144

INTERVIEW HISTORY

After the 1.75 billion dollar California Water Bond measure was approved by voters in November, 1960, the next major step in the lengthy water development process, which had begun with planning in the 1940s, was the construction of the State Water Project itself. To direct this gargantuan task, one on a scale never before undertaken, even by the federal government, Governor Edmund G. (Pat) Brown chose William E. Warne.

Prior to his appointment as director of the Department of Water Resources, Mr. Warne had had a long career in administrative posts dealing with land and water issues: sixteen years with the United States Department of the Interior; approximately eight years in Iran, Korea, and Brazil with the Department of State administering economic assistance programs. In 1959 Governor Brown called him back to his native California from Korea, assigning him first as director of the Department of Fish and Game, and next as director of the Department of Agriculture, both considered agencies in serious need of reorganization.

By September, 1960, feeling sure that the water bond measure would pass, the governor decided to entrust Warne with full authority to build the multi-billion dollar water project. Warne was ready and eager to undertake what he knew would be the major challenge of a career which already had its share of challenges.

His first responsibility was to reorganize the Department of Water Resources so that it could build as well as plan a project of the scope envisioned in the Burns-Porter Act: the massive Oroville Dam and a series of smaller dams, 540 miles of aqueduct, the pumping plants and power plants, the San Luis Reservoir in partnership with the federal government, all designed to provide water for urban, recreation, and irrigation uses from Plumas County in the north, over the Tehachapi Mountains to Riverside County in the south.

A highly trained staff had to be hired and its responsibilities clearly delineated; legal and financial hurdles required innovative solutions. Eventually routines were established to keep track of the program--weekly staff meetings and sophisticated control programs and reports, always under the continual scrutiny and final direction of William Warne.

Building the California Water Project was not, however, solely an administrative task. There were concomitant sensitive political relationships: On the state level he was in touch with the governor and his staff and with state legislators on various administrative, financial, and legislative matters. On the local and regional level he dealt with large and small landowners and water users, and with officers and staff of the Metropolitan Water District about construction plans and water rates as well as with

San Joaquin and Delta agricultural and industry interests concerned with the Drain and the Peripheral Canal. On the federal level he met often with congressmen and officials in the Department of the Interior about the San Luis Reservoir, the Pacific Southwest Water Plan, California's projected loss of 500,000 acre-feet of water from the Colorado River, and the eventual building of Auburn Dam and other adjuncts to the Central Valley Project. He was, furthermore, a member of many committees and commissions, one of which was the State Water Pollution (later Water Quality) Control Board where he was concerned with ensuring the quality as well as the quantity of water along the California Aqueduct.

We held our first meeting on February 14, 1979, on the Berkeley campus in the conference room of The Bancroft Library to discuss the topics we should cover in a planned six hours of interviewing. Following this, using a detailed outline, we had two three-hour interview sessions in his large, second-floor, book-lined study and office in the Warne home in Sacramento. The first took place on February 28, the second, a week later on March 13, 1979. Mr. Warne was well prepared for the interviews. He had done careful research in the areas we had planned to discuss, marking and laying out for our use many of the documents and reports which would enliven his story as well as ensure accuracy.

Mrs. Warne, on each of these days, graciously prepared lunch, providing a pleasant break to the three hours of concentration on the complex water subject. During this interim she also showed me around the first floor of their spacious home beautifully decorated with furniture, rugs, lamps, and other accessories collected during the years they lived in and traveled around the Middle East, the Orient, and South America.

When I returned the lightly edited transcript to Mr. Warne for his review, I also asked him to answer some additional questions, knowing that with his background as a writer and his concern for covering a subject thoroughly, he would be willing to provide the answers and thereby enrich the memoir. He carefully checked the transcript, slightly revising some sentences for greater clarity, filling in some names and dates and other explanatory details. In answer to the written questions, he returned an essay, partly typed, partly handwritten, on the background and development of California water history as it related to the water plan. He also sent along many photographs and slides showing himself, Governor Brown, and other colleagues at times when they were relaxing and at times when they were on official business. Some of these have been placed in this volume; all the originals have been returned to Mr. Warne.

Students of water history will be grateful for the time and effort which Mr. Warne put into this brief overview of his highly demanding six years administering the construction of the California Water Project. He has demonstrated his patience in explaining what to him are the simple a, b, c's of a subject which so often appears laden with incomprehensible political, economic, and scientific complications.

Those seeking additional background on Mr. Warne during this period will find it among the papers of Governor Edmund G. (Pat) Brown in The Bancroft Library and in the Water Resources Archives on the Berkeley campus, which has a collection of Mr. Warne's speeches, a few of his articles, and some miscellaneous correspondence arranged chronologically covering the years 1961-1966.

Though colleagues and water interests may not always have agreed with Mr. Warne nor felt comfortable with his strong administrative style, they agree that he was an exceptionally capable director of the Department of Water Resources, in place at precisely the right time in the building of the water project.

Malca Chall
Interviewer-Editor

11 September 1980
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

Governmental History Documentation Project Interviewee

Your full name WILLIAM E. WARNE

Date of birth Sept. 2 1905

Father's full name WILLIAM R. WARNE

Father's place of birth PIKE Co., OHIO.

Mother's full name NETTIE JANE WILLIAMS WARNE

Mother's place of birth PIKE Co. OHIO

Where did you grow up? IMPERIAL VALLEY, CA

Education Holtville, CA, UNION HIGH School, UNIVERSITY
of CALIFORNIA, A.B. 1927 (now UC/B).

Early employment NEWSPAPERS and ASSOCIATED PRESS 10 YRS.
U.S. BUREAU of RECLAMATION, 12 YRS., U.S. DEPT of INTERIOR, 4 YRS.,
US STATE DEPT., (AID programs IRAN, BRAZIL, KOREA) 8 YRS.

Positions held in state government DIR of FISH and GAME, DIRECTOR
of AGRICULTURE, ADMINISTRATOR of RESOURCES AGENCY, DIRECTOR
of WATER RESOURCES.

Employment after leaving state government V. P. for Water Resource
Development and Resource Corp, 2 yrs; Water Resource
consultant since May 1969.

I BACKGROUND IN WATER MATTERS

[Interview 1: February 28, 1979]##

California Water Issues, 1932-1951

Chall: I wanted to begin at the beginning with you. That is, how you happened to come in from Korea to become the director of the Department of Fish and Game in 1959. How did that come about?

Warne: Really, when you want me to go back to the beginning, I have to go back a long way, since it was my interest in water resources in California and various contacts with Pat [Edmund G., Sr.] Brown that brought the request to me in Korea to come back.

Chall: How did that come about?

Warne: Let's go into it just a little bit, just for the fun of it.

Chall: Yes, some of your background. I think you said you'd stopped in Sacramento on your way to Korea or back.

Warne: Yes, in San Francisco.

Chall: To meet him while he was campaigning.

Warne: Edward Hyatt was the office engineer of the then Division of Water Resources from July 1, 1920 to August 20, 1929. He was state engineer from August 14, 1929 to February 1, 1950. It was actually

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 143.

Warne: through Ed Hyatt that I first got interested in the water problems of the state. I was in San Diego as the correspondent for the Associated Press in 1932, when Ed came down there with Governor [James] Rolph and began the campaign for the first Central Valley Project.

Chall: Is that right?

Warne: Yes. We became acquainted and got along well. I went on to Washington, D.C., in September, 1933. While the Central Valley Project was approved by the California voters in 1933, the state couldn't sell the revenue bonds in the Depression and it became necessary for Ed to try to get the federal government interested in the project.

Hyatt came back to Washington with A.D. Edmonston. Edmonston succeeded him as state engineer on February 2, 1950 and served in that position until November 1, 1955. But Bob was Ed's assistant in 1935. I was very much on the que vive as far as California news was concerned. My assignment with the AP was to cover, regionally, Washington news for California, Arizona, and Nevada. The CVP was big California news. Ed tried everything in the world to get the federal government to finance the Central Valley Project by taking the revenue bonds--couldn't make a sale to the Reconstruction Finance Corporation or the new Public Works Administration.

So in the end I helped him and Bob Edmonston to write an application for a public works project that was taken over to [Harold L.] Ickes, who was both secretary of interior and PWA administrator. He approved the Central Valley Project for PWA financing, but for construction by the Bureau of Reclamation as a federal project. About that same time, within a month, I was asked by the Department of the Interior to join the staff of the Bureau of Reclamation under Commissioner Elwood Mead. My association with the bureau began on June 1, 1935.

Chall: As what? An information officer?

Warne: My first title was associate editor, I believe. Later, I was chief of information, and also co-director of the planning program with Harlan [H.] Barrows, of the University of Chicago, for the Columbia Basin Joint Investigations. We called it the Joint Investigations of the Columbia Basin Irrigation Project, in which we engaged more than two score agencies, public and private. That was from about 1938 to '42.

I became assistant commissioner in charge of planning and administration in the bureau in 1943 and served in that capacity for four years while Harry [W.] Bashore was the commissioner. Then

Warne: I was appointed assistant secretary of the interior for water and power development, at the suggestion of Secretary Julius Krug, taking that position on July 1, 1947 and holding it until sometime in November of 1951, when President Truman sent me to Iran as the head of the first Point Four mission.

Chall: Because the Eisenhower administration was coming in? Was that 1951?

Warne: This was before the campaign, really--1951. When the Eisenhower administration did come in, things were so tough in Iran that Mr. [John Foster] Dulles and Harold Stassen, who became the AID [Agency for International Development] director, in an around-the-world trip, couldn't get into Iran. We had a meeting with them--Ambassador Loy Henderson and I--down in Karachi.

Despite the fact that Dulles and Stassen were dispensing with most of the AID [country] directors in the world and appointing new ones, they couldn't dispense with me because of the situation in Iran, I guess.

Chall: I see. You were important there.

Warne: I stayed on with them, and Stassen and I became good friends. He sent me down to Brazil in 1955. Then later, [John B.] Hollister, who succeeded Stassen, sent me to Korea as United Nations Command economic coordinator. That was the USAID country director title in Korea in that period. I went to Korea in July of 1956. That's where I was when Pat Brown made his successful run for the governorship in California in 1958.

Chall: So you really knew the California water situation well. I guess Edmonston and Hyatt were water.

Warne: They were. But, of course, there were others. They brought most of the others to Washington at one time or another during the period that I was there. Senator John McColl, Senator Oliver Carter, Clarence Breuner. As a matter of fact, the first time I met Pat Brown--I can't remember the exact year it was, but it was while he was attorney general and he was with Hyatt and Edmonston, or perhaps only Edmonston. I believe it was after Hyatt had left the department, which would make it 1950, I suspect. Brown came to Washington, D.C., with a group led by one of them. I remember a couple of meetings there on some issue involved in the Central Valley Project, and Edmonston was introducing Pat Brown around as a new enthusiast for water development in California.

Warne: Many years later, one time I asked Pat how it happened [chuckles] that he got interested in water, making it a major plank in his campaign for the governorship, really, and also a major activity during his administration. He said that Bob Edmonston had...I believe he was on some commission on which the attorney general served, and Pat was being quite aggressive about a number of things. Edmonston was appearing before the commission on some matter having to do with water, and Pat took an interest in the subject.

Pat said that Bob took him aside and said. "Look here, young fellow, you want to run for governor some day, you better get on this water wagon fast." [laughter] He was a great guy, that Edmonston, so Pat followed up the suggestion and became expert on the CVP. Okay. Well, this ties in with the fact that Edmonston did bring him to Washington at about the time I recalled. Pat was very enthusiastic and made quite an impression on those of us who were in the Interior Department as an up and coming official in a great state, who was really interested in what was going on in the water resources field.

I didn't have many contacts with Brown in the interim between those meetings and the time--it must have been eight years later, really--that he called me out in Korea. Seven or eight years anyway. But I had a few.

I used to come to California at intervals rather frequently, really, for meetings when I was in the bureau and also when I was assistant secretary. Frequently these meetings involved government officials here. As a matter of fact, Earl Warren was one who also was interested in water and in the Central Valley power development project. I think I used to meet with him while he was governor more frequently than anyone else in those days except perhaps Ed Hyatt, and Edmonston.

Earl Warren never lost his interest in the CVP nor California's water problems when he became Chief Justice nor after he retired. He was just as interested in the State Water Project. I think this was one of the ties that bound him and Pat Brown together in firm friendship. They were together often, and several times when I was with them--as at the Shriners' game one year in San Francisco--water was a subject that bobbed up frequently in their conversation--water projects and California politics. I remember with appreciation that Chief Justice Warren, then retired, pushed the master of ceremonies aside and took the microphone at the dedication of Oroville Dam in 1967, which the new Governor [Ronald] Reagan had apparently organized as a one-man show for himself. Warren reviewed his long interest in California water developments and mentioned Governor

Warne: Brown's part in them, which Reagan did not in his remarks, which were the only scheduled talk on the program. Pat did not come when he discovered that, although he and I had built 95 percent of the dam, neither he nor I was to be acknowledged in the program.

Economic Coordinator, Korea, 1956-1959

Warne: But there were some occasions in the intervening years when I met Pat Brown. When he ran for the governorship in 1958, I was in Korea. I was the economic coordinator for the United Nations Command, which was a peculiar sort of an arrangement, organizationally, since I was on the payroll of the USAID [ICA]. I think it was called the ICA--International Cooperation Administration--at that time (its name changed frequently), but I was on the staff of General George Decker, the UN commander, and not the staff of the American ambassador, as I had been in Iran and in Brazil, since the UN Command was under the U.S. military. Decker, who also commanded the U.S. Eighth Army, and Ambassador [Walter "Red"] Dowling and I were very good friends. Despite the fact that the organization looked like it wouldn't work, we got along fine and things worked fairly smoothly.

Chall: This was after the end of hostilities, wasn't it?

Warne: Yes. Hostilities had ended. In 1956 when I first went over there, we were just getting into the reconstruction period, really. It was a terrible situation; that is, the country had been devastated. I wasn't familiar with Europe at the end of the Second World War, but Dowling had been there in Bonn before he came out to Korea.

He said that in his judgment, Korea had been devastated to a degree greater than any other country, even those which had suffered most in the Second World War, with the result, for example, that there wasn't a single bridge intact in South Korea. We had to rebuild the whole of them. The Han River Bridge right at Seoul was a pontoon affair when I first got over there. It was a pretty rough period and a very interesting and exciting one.

I had been abroad, by 1959, about eight years. I felt that if I stayed with the AID program, most likely, they were going to reassign me in the very near future to another three- or four-year stint, and I thought it probably would be in India. By the time I finished that, there wouldn't be any possibility of ever coming home and being again a part of an ongoing program here. I thought it would be a good idea if I...Our work in Korea was at the point where I felt, at least, that it was successful.

A Visit with Governor Edmund G. Brown, Sr., 1958

Warne: I was in Washington the day after the election had been held. Brown had been elected over Bill [William] Knowland. I sent him a telegram of congratulation and suggested that I might stop in San Francisco on the way back to Seoul. I said I would like to see him. I did stop in San Francisco and went to his office--the attorney general's office down in the city--and he was very busy making preparations to assume the command in Sacramento, though the prospect was still a little new to him and he was still the attorney general. I remember being ushered into his office very quickly and talking with him rather generally, reviewing when we had met before and what our situations were--that kind of thing.

I told him that if he wanted me to, I would be glad to come back to California to help him out in his administration. I wasn't particularly seeking an appointment, I said, and I hadn't done anything politically for him that would make it important that he reward me, or anything of that sort. But I had a good track record and felt that I could really drive a program through.

He said, well, he was interested--he said, "By the way, there's a whole group of people out there right now. I just had a telephone call from my secretary. It's the Metropolitan Water District and a bunch of Southern California water leaders. Why don't you just sit here?" I said, "Pat, I'll go on back and--" He said, "No, why don't you just sit here; you know some of them, most of them, anyway. I'd kind of like to have you here while they're in here."

In they walked. Must have been ten, maybe even a dozen of them--they always hunted in a pack. [laughter]

Chall: They knew what they wanted.

Warne: They really did.

I remember that Joe [Joseph] Jenson was there. I don't remember the names of most of the rest of them, but I met them many times later. At that time I remember Pat said, "You all know Bill Warne." I thought they all looked at me as though--well, very calculatingly. I suppose most of them jumped to the conclusion that Pat was parading me as the potential director of the Department of Water Resources. I can't remember much that transpired at that meeting except that they were very much interested in the promotion of a state water project, a general program to augment the water supplies in Southern California.

Warne: Pat was not discouraging. As a matter of fact, I think he had already made up his mind that that's what he was going to drive for. The discussion went on for thirty-five or forty minutes, maybe a little longer. The meeting broke up. They left and I shook Pat's hand and said, "Well, remember, if you want me, give me a call." I went on back to Korea.

Brown had been inaugurated in January and I didn't hear anything. As a matter of fact, I didn't particularly anticipate anything--not pressing anything, really. Our agency, the AID agency, had set up a meeting in Saigon for all of the directors in East Asia. I don't recall exactly the date, but I believe it was--I saw that date the other day--it must have been about the first week of February--something like that.

I had made preparations to go down there. General Decker was taking his plane to Manila and he asked me to ride along with him to Manila. I could fly commercial over from Manila to Saigon. We had made these arrangements. About a week before our departure, I got a call from Pat Brown--a telephone call from Sacramento. Transpacific calls were infrequent and not very satisfactory to Korea at that time. He said he was interested in wanting to know whether I was serious about coming back to California, and I said, "Sure. If I could come back to do something significant for you, I'd be glad to." I thought I'd had about enough of this foreign business. I did not want to become an expatriate.

The governor said that in a few days I ought to hear from Charles Johnson. Now, I had never met Charlie Johnson at that time, though I met him later. He was Pat's--they changed those titles in the governor's office--he was the governor's principal administrative assistant. I think he had served similarly for Goodwin Knight.

Charlie later was appointed to the superior court bench here. Unfortunately, a couple of years ago, he died. He was a very good man at keeping track of a great number of things all at once. I had a call from Charles and he said that the governor wanted me to come back and take a directorship and take it right away. Right away; he was in real trouble, and he needed someone for this position. I said I had received a telegram from Pat saying that he wanted me to come back and take the toughest job he had at the present time. I said, "What's so tough about this water resources job?" He said, "Oh no, it's fish and game we're talking about." I said, "My God! Fish and game!? I don't know anything about it. He didn't talk to me about that!"

Warne: I said, "I was in charge of the federal Fish and Wildlife Service once, as assistant secretary of the interior, and I also spent some time on the fish and game problems in Alaska while assistant secretary, but," I said, "that hasn't been my major activity."

"Well," he said, "this really is a job that demands an administrator as much as anything else--someone who knows the field, but an administrator." I said, "What is involved? What's the pay?" "Well," he said, "the pay is"--I believe he said \$16,000 a year.

Chall: I think it was something like \$16,500, I read somewhere.

Warne: They raised it on me after I'd been back a few months. And I said, "Holy smoke! That's going to be difficult for me." My salary was about \$24,000 at that time over there. However, at various times in my career, I had changed jobs for lesser money, having always been convinced that there are other things more important than the amount of money--just so long as you get enough to live on.

I said, "How about a car?" He said there were government cars. But he said, "We don't have any drivers." I guess he knew I had a personal driver then. He said, "There are no perquisites as you might have in the foreign service." I said, "I'll have to give at least thirty days notice if I come." He said, "Well, we need this right away. How about letting me know by"--I think it was the twenty-eighth day of February that he set as a deadline. I said, "Okay. I'll give you a telephone call. Can I get through?" "Yes, if you call between certain hours"--which I had to transpose into Asiatic time--"you can get through all right." I said, "All right, I'll let you know."

I went back to the house and packed a suitcase for the trip to Saigon, which was just about ready to start. I told my wife that I was strongly under the impression we were going back to California. Well, she said, she wanted to live in Southern California.

I said to Margaret, our little girl who was getting ready to go to high school the following year, "Margaret, where do you want to go to high school?" She said, "I don't care, Daddy, just so it's the same school." I figured that she had been--she'd never finished a grade since second grade in the same school that she started it--that we had moved or that she had had to be evacuated from various posts that we were in owing to unrest and disturbances. So here we were. She was finishing her grade school, I believe it was the ninth grade, and I was about to disrupt her program again by leaving in February with several months of the term to run. No wonder she wanted to go to the same high school.

Warne: I said, "If we go back, we'll move into the house in Altadena and you can go to the Pasadena school--high school." That was the arrangement I had with my family when I flew down to Manila. I called Johnson from Manila. We got really down to brass tacks on what this assignment was that I was coming back for, if I did. I didn't say for certain then. I went on to Saigon and sent a cable into Washington, resigning effective the thirty-first day of March, 1959, and sent a cable to Johnson, accepting the position in Sacramento.

Chall: So that would be April, or could you leave before then?

Warne: No. Actually, the way we worked it out--they [in Washington] were very much hurt. They wanted me to spend six months making a transfer and a whole lot of other stuff--that is, the Washington group did. But I pointed out to them that they had told me that they would, if they wanted to make a change, give me thirty days notice. I said, "Now I've been over here more than two years and it's strictly within my authority not only to leave, but also to write my own travel orders and termination orders, and that's what I'm going to do." And that's what I did do.

They asked me then, please could I arrange in Sacramento to come into Washington to help them for a week or so with the budget preparation and presentation after I got to California? I agreed to do that if the governor would let me. I made the week's trip to Washington a condition on accepting the post here.

My wife and I flew home. We left Margaret over there with Ed and Mrs. Cronk of the embassy to finish her school--a thirteen-year-old could come home by herself. The Cronks had a daughter in Margaret's class at school.

Chall: That's interesting.

Warne: She did come home alone when school was out a few months later. She told me that some Indonesian student, who was about twenty-five years old, was on the plane; sat next to her. He was scared to death of all these unusual things, so she, in effect, had to guide him through all of the procedures in Tokyo, Honolulu, and San Francisco. Thirteen, but she was an experienced traveler.

Director, Department of Fish and Game, 1959

Warne: In any event, we came home and landed in San Francisco on March 31, in the evening. I was met there by someone from the governor's military office. The governor had a National Guard colonel who had an automobile over in San Francisco and they sent him to meet--

Chall: The VIP. [chuckles]

Warne: --great dignitaries. He took me into San Francisco. Walter Shannon, who was my deputy later, was at that time deputy in fish and game. He came to the hotel and drove me to Sacramento on the morning of April 1. I went into the governor's office and was sworn in that same day as director of the Department of Fish and Game. Then was when I discovered why they wanted me to take that job.

Chall: I don't know very much about it, but it seems as if that department was in some kind of difficulty.

Warne: They had a problem. Seth Gordon, who had been the director of fish and game, was a very distinguished conservationist. He lives here in Sacramento. He's a good friend of mine and I see him every once in a while--even today. As a matter of fact, I have worked with him some since then.

Seth was not a very strong administrator. He was trying to elevate the scientific qualifications of the department by bringing in some wildlife biologists and fisheries biologists and people interested more in the management of the resources than in the law enforcement elements of the work of the department, which had always been the key function of the department before his time. As a result, there was a very deep cleavage in the staff, with the new element on one side and the wardens, who had very firm associations with a constituency in the field in each case, on the other. There was a warden in every county and he lived with the people of the area. Wardens had been looked upon like Smokey the Bear, as parts of the community.

When they got their noses out of joint...They got their noses out of joint with Gordon as well as with the young whippersnappers from Humboldt State and Woods Hole and other places that were producing the kind of scientific game manager and fishery biologist that Seth recruited.

Someone had decided that they ought to run an experiment to see whether the sheepmen were right--that coyotes were eating little lambs--so they put bells on some coyotes and turned them loose and

Warne: tried to follow them around. The press, which was pretty much fed up with the whole controversy by that time, made a terrible stink about it. Ridicule. All the outdoor writers picked it up and they actually laughed Seth out of the office and Brown had to let him go. The wardens had a major role in the ouster campaign, not openly, of course.

The office was vacant when I got there.

Chall: So he resigned then, as a result. He just couldn't take it any longer, is that so?

Warne: Yes, that's right. I didn't realize until I got into it, what the situation was exactly. I remember the first thing that came before me, the first question that I was asked by the newspaper people when the governor and I met the press after I was sworn in. The first question was, "Are you going to keep Walt Shannon as the deputy?" I said, "Yes, that was my intention. I have no other intention. I'll keep Walt Shannon as deputy director. I haven't talked this over with the governor, but I think this is within my authority, so, yes, I plan to keep Walt."

I didn't know how fortunate I was in having made that decision since Walt had been a game warden himself. He was a very good man, really. When I left the department a year later, it was on my recommendation to the governor that he appointed Walt as the director. Walt did an excellent job. And he was very loyal to the governor, too. He stayed there until the next administration came and then they cut his throat. A very unpleasant finale, really.

In any event, later on, on several different occasions, I talked with Pat about how it was that he had happened onto me to come back to get that darn fish and game job. He said that when he went down to Sacramento, he quickly saw that several of the departments needed more experienced administrators to give them a sharper administration than they had been having. He didn't have anyone quickly in mind.

He said he was discussing this problem with some of his advisors, including Senator George Miller. Jr. I had known George quite a while, also, from our contacts when I was in the Bureau of Reclamation and in the Department of the Interior in Washington. They were discussing this and that and George said, "Why don't you get some people out of the Department of the Interior who have some experience in these fields?" Pat said he didn't know very many of them. He said that he knew Bill Warne.

He said, "Well, why don't you get Bill Warne?!" George said this. Many people would not have guessed that, since George and I had a lot of controversies later, but he said George was very much

Warne: of the opinion that it would be a good thing to get me into the administration. When this fish and game deal hit him in the face, he wasn't ready yet to move on the Water Resources Department.

Pat thought of me and the fact that I had had experience in the Department of the Interior, actually with some of these same resources and problems. So, that's the way that it came about.

Chall: I see.

Warne: What I did in fish and game--

Chall: I wanted to ask you about that, what you might have had to do, because, as I got it, just from reading the Blue Book, it looked as if it didn't really have what you'd call a normal administrative structure. There seemed to be a commission at the top over a director. I wondered whether that could have created some of the problems. Also the department was almost entirely self-supporting, so I suppose they felt they didn't have to take direction from anyone. That doesn't make for good administration.

Warne: That was a part of the situation, not all of it.

The Fish and Game Commission actually set the fishing and hunting regulations after receiving recommendations from the staff of the department and after holding public hearings. It also fixed all policies. Various members had some doubts about Gordon's program and the establishment of district managers. Several were accessible to the disgruntled wardens. My attitude from the start was that the director was to run the program, and I met with the commission on that basis. There was also the fish and game conservation fund, by which the legislature appropriated \$750,000 a year for little projects that were under the--not the Fish and Game Commission, but under a special conservation board, which consisted of the director of the Department of Fish and Game and two other functionaries. I think maybe the director of the Department of Finance, who always sent someone else. I've forgotten who the members were other than the department director.

But the legislature had written into that law a provision that there would be an advisory board of legislators appointed by the legislature.

Chall: That was the Wildlife Conservation Board?

Warne: Yes. There'd be an advisory board appointed by the legislature, and this advisory board attended all meetings. The first meeting I went to, I was just shocked beyond comprehension. I'd been in office only

Warne: a few days. I found that several projects amounting to about \$300,000 were brought in. I never saw a better illustration of logrolling in my life: a \$50,000 fishing access project in this assemblyman's district, and so forth, with the advisory board members obtaining the plums.

They brought this in, the staff did. It wasn't the Fish and Game Department staff. It was a separate staff. The advisory board said to me, "We can't vote on approval of this. That is your job. But first, the way we proceed here, we take an advisory vote to decide what to advise you to do." [bitingly]

Chall: And you'd better do it?

Warne: No, they didn't say that. But the meaning was clear. They were on the fish and game committees.

So they took a vote on how to advise me to allocate these monies and then they sat back. I said, "Well, you know, I haven't had time to look these projects over. And I want to know--you only take care of \$300,000 with this kind of an operation at this time; I want to know what we did last year, and what we're going to do with the other \$450,000 this year. I'm not going to act on this at this time."

Well, I tell you, it was like declaring war, apparently, on the legislature. Our good friend Pauline Davis was chairman of the Assembly Fish and Game Committee.

Chall: Yes, she was.

Warne: Also, she was on the Ways and Means Committee, and on the subcommittee dealing with our program. She was on this advisory commission. Well, she was kind of mad. However, I went over to see her and I said, "Look, now, what I want to know is whether we know what we're doing on this program before I act. You know, I'm brand new at this. You can't expect me to act without some information. I think it's inappropriate for that advisory committee to take a vote. I decided to ask the staff to bring in the whole annual program at once, so we would know whether these projects fit into a sound program."

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Warne: I got acquainted with Pauline Davis through that method, and [Lloyd] Lowrey, who was a member of the committee and also a member of the advisory board. Both had been members with whom the Fish and Game Department had had extraordinary trouble earlier. But I found that I got along with them fairly well, as a matter of fact, quite well. They're both good friends of mine. Neither one was ever easy to work with, but we got along. I worked on it.

Chall: Was that because they had strong opinions, or just difficult people?

Warne: Oh, yes. Not only strong opinions but were never temperate in their statements. [chuckles] It was pretty hard to move them when they'd declared themselves in some intemperate manner. However, we got along.

One of my very first experiences was with a young man named Ed Capps, who was a reporter for the Capitol News Service. He had been the principal needle to the department and also the principal antagonist of Seth Gordon, apparently.

Chall: As a member of the news staff.

Warne: Yes. His boss, Henry McArthur, had a service that went to a great number of papers in the state, most of them rural papers. Ed's principal forte was the Fish and Game Department, and he'd been playing it to a fare thee well. He had exploited the belled-coyote story at great length.

Immediately after the board meeting at which I had postponed action, Ed asked if he could talk with me. I said, "Okay, let's have lunch. Where will we go?" He said, "Well, let's go over to Frank Fat's," so I went down to Frank Fat's with him. We sat in one of the little booths right next to the bar and Frank Fat eyed us. I was very naive. Ed said, "What is the reason you didn't adopt those projects?" I said, "Well, I wanted to review that whole program. That's the only money we've got for capital improvements in the fish and game business. I just didn't like the way the legislative advisors after, in effect, delegating the responsibility to the department, to the director, to allocate these funds, came over to tell the director exactly how to allocate them. I don't want to allocate the funds piecemeal. I want to see how the whole works, to know whether as a whole the projects make a program for the year."

He said, "You know, that makes a lot of sense to me." I said, "Well, that's the reason why." We finished lunch and I said to the girl, "I'd like to have the ticket." She said, "Oh, there's no ticket for this booth." I said to Capps, "Did you pay for this lunch?" He said, "Oh no, I didn't pay for it." I said, "Well, this was my lunch." So I called the girl back and said, "Look, I want to pay for this!" She said, "I'm sorry, it's already paid for." I said, "Who paid for it?" She said, "That gentleman who walked by here a minute ago." "Capps," I said, "who was that?" "Oh," he said, "he's a lobbyist for the tuna canners." [laughter]

Chall: How interesting!

Warne: I said, "That's the last time I ever come in to Frank Fat's!"

Chall: What a way to work it!

Warne: And that's the last time I did go to Frank Fat's.

Chall: I wondered about the relationship of the director and lobbyists.

Warne: The funds for the conservation projects were not from licenses, as were the operating funds of the department, but were directly appropriated by the legislature. Perhaps that is why the legislative advisors thought they had a special role in their administration. They were happy enough to leave the business of fixing the regulations to the Fish and Game Commission, because of the hot-potato character of that job.

I didn't have much trouble after that first meeting of the board. The advisors never pressed me after that, that is, that board. I, of course, had many, many conferences with legislators, some of them in my office and some in theirs. Sometimes they were, in effect, lobbying, and sometimes I was there beseeching them to carry a piece of legislation or to modify one that they had turned in, or something of that sort.

I suppose actively, through the years, I had more such meetings with Pauline Davis than anybody else. She was on the Water Committee too, and was more or less a maverick at all times. But I got along very well with her.

Several of the bills that she carried, while they might not have started out as acceptable to the department, were modified in a way that the department not only approved but supported them--the Davis-Grunsky Act and the Davis-Dolwig Act are examples.

Chall: That's fish and game, or water--

Warne: No, water resources. In fish and game, I don't recall any very earth-shaking bills. Most of it was--well, there wasn't any very earth-shaking...

Chall: It was really getting it into a proper administrative frame?

Warne: Yes.

Chall: Did you change any of that? Did you change the relationship of the commissions to the director or did you just try to organize it within the framework that was already there, which certainly looked like a difficult framework?

Warne: It was a difficult framework, but I didn't try to modify the framework. What I did do, not only with the Wildlife Conservation Board, which I just described, but also with the Fish and Game Commission, was to take a leadership role. I didn't find that too much resisted.

Several members of the Fish and Game Commission--[Henry] Clineschmidt, Jamie Smith, [William P.] Elser from down in San Diego--I had at least met before, one way or another, and they proved to be very good friends and staunch supporters. Tom Richards--I never found him to be at all obstreperous. Carl Wente was a little more reserved. I think they all responded, actually, to a little leadership. It relieved them some, you know.

Their meetings were most uncomfortable--not for me nearly so much as for them--because there was a group who was very vocal, and vociferous, and aggressive, who came to every meeting and attacked them [the commissioners] personally on almost everything they did. It was rather uproarious at times. They didn't attack me nearly as much as they did the commission, itself. No hunting regulation was ever satisfactory to them.

Chall: They represented interests, then.

Warne: Yes. The interests the protesters represented were the ones that might be called the outer fringe of conservation: the no shoot, no kill, no gun--

Chall: They did? They represented that?

Warne: Yes.

Chall: All of them?

Warne: The ones that were the most difficult to handle. So it was a very interesting period.

I remember one of the no-kill advocates, who was in violation of the regulations by penning up and feeding wild deer on his ranch on the shoulder of Mt. San Jacinto, called Mr. Wente "the most atavistic lout on the commission" during one meeting. Wente was a high official of the Bank of America and active in Ducks Unlimited. Clineschmidt wanted to fight the guy, but Carl knew what atavistic meant and let it pass.

I, myself, decided that the biggest job of all that I had as the director of the Department of Fish and Game was to get the staff working together and also to get these biologists and game managers more closely related to the areas in which they were assigned to work.

Warne: Walt Shannon and I, Harry Anderson, who was then my manager, and Bob Calkins, who was the information officer, set out a program in which we were going to go--I was going to go--into every county in the state--and there are fifty-eight of them--and hold a meeting with the people interested in local fish and game problems, with our staff representatives present. That is, each time I would have someone from the district office, someone from the biological staff, and the local game wardens present, and we'd hear the local people out.

We started out in San Francisco with the Tyee Club, which was very...Well, I got through it and the staff told me that we had the problem licked now that we had survived the Tyee.

Chall: If you got through that one all right?

Warne: That's the worst one of the lot, they said.

Chall: That's boating, isn't it?

Warne: Yes. Oh, they're everything--boating, off-shore fishing, sport fishing, protect the bay. At that time their leadership was very aggressive.

We went on and I was out holding these meetings in every place you could think of--Bridgeport--down to towns that you had to hunt for on the map, lots of times. And I found it a very useful experience, not only for me but for the staff, which hadn't really ever had that experience in depth--managers and wardens meeting with their constituents--and it was also good for the people out there in the counties.

Chall: That nobody had ever come to see?

Warne: Nobody had ever come to see them. They could holler as much as they wanted to, but usually they turned out to be fairly reasonable people after you got around to listening to them. Some of the commissioners started to come to some of those meetings, too. It gave them a little more exposure. It helped to improve their own hearings, which were always held in the cities, mostly in Sacramento.

Chall: What staff did you take with you? The wardens in the area?

Warne: I took the wardens in the area and the district game managers, plus someone from the Sacramento staff.

Fish and game has a couple of little airplanes they use for patrol work. They can be rigged also to plant fish from the air. We flew those around quite a lot on this kind of deal. I felt fairly

Warne: secure flying with them until one time I remember trying to get into the Burbank airport and letting down, letting down, letting down, and Leo Singer, who was flying the thing--he was a warden-pilot stationed at the time in San Bernardino--when we finally broke through the cloud--here was the airport right in front of us and he went [sharp intake of breath] aahhh--hehhhhhhh, with such relief that I got a little nervous belatedly. [laughter]

Mentioning Capps a little earlier and his part in stirring up the fish and game controversy reminds me that some elaboration of the role of the newsmen might be interesting. In 1959, Ed and Wilson "Bill" Lythgoe, outdoor writer of the Sacramento Bee, were the most influential reporters on fish and game matters in the state, but all of the big papers had special outdoor writers, such as Ed Neal, of the San Francisco Chronicle, and they covered our activities like a blanket. In agriculture and water resources, later, I did not find any such knowledgeable reportage by specialized writers. The hunters and fishermen of California are a special breed, regardless of their other interests. They like to think that they pay for the Department of Fish and Game and through the Fish and Game Commission that they run it. Ed Capps and Bill Lythgoe had very wide and avid readership among the sportsmen.

The department had an unusual program afoot in 1959. The golden trout, which since then has been designated as the California state fish, has a limited range in the High Sierra near Mt. Whitney. Our fisheries managers wanted to capture a breeding stock and transplant it to safe havens, since Whitney Meadows, which contained the largest golden trout population, was beginning to be the back-packing paradise it has now become. We were afraid the golden trout might be fished out of the little streams in the meadows. Shannon and Calkins mentioned that Ward Gilliland, of our Los Angeles office, who was in charge of the transplant, thought that I might like to take part in the caper. I said that the governor talked frequently of his trips into the Sierra as a young man, and might want to go, too. We decided to invite Lythgoe and Capps, and I added my old friend from AP days, Paul B. Zimmerman, who was then sports editor of the Los Angeles Times. The party grew some when the governor accepted my invitation. This was to prove to be another means of pulling our staff together and of obtaining a better understanding of our programs by the press and public.

This pack trip was the first, as it turned out, of seven or eight that the department hosted during the Brown administration. Pat went on all but one of them, as I remember it. One year he had broken a leg playing golf and could not ride. Those were pretty rugged trips. Each time the goal was a wilderness area and the ride was on horseback over several miles of rough trail.

Warne: That first trip was a lulu. The boys had hired a wrangler, who turned out to be a young, inexperienced kid. He took the wrong fork in the trail and lengthened the ride by two miles or more in Whitney Meadows. The governor and I were getting pretty sore, not having ridden for a long time, and he kept hollering down the line, "Where is that camp, anyway?" and "Are we lost?" He said, "I can see the headlines tomorrow: 'Brown missing in the Sierra, out on a lark with his fish and game experts.'"

When we topped a little rise and had a good view of the meadows, sure enough we had been lost. Our camp was barely visible, far to the north.

"Are you a Republican or something?" the governor shouted at the guide. "Trying to kill the governor!"

Someone already in camp, seeing us coming from the wrong direction, had thoughtfully prepared a pitcher of martinis, which made the ride in seem like fun again. But we searched around for a forest service landing strip and had grasshopper planes come in to take us out after a couple of days of fishing. We caught innumerable golden trout with barbless hooks and put them quickly into ten-gallon milk cans, which were iced and loaded onto mules and taken to new waters.

This gave me and the governor an opportunity to talk with the outdoor writers about what the Department of Fish and Game was trying to do with its programs statewide. Capps and Lythgoe went on each of the trips in succeeding years, and despite the fact that I left fish and game after 1959, we remained close friends until Ed, unfortunately, died.

I was no longer in the state government when one day I happened to meet Ed Capps in a bar. He apologized for drinking coffee. "Had a little trouble with my ticker," he explained. He and Lythgoe had been combat officers in the Pacific in the Second World War, and on our camping trips he always dressed in black and wore a pistol at the hip. He liked to refer to himself as Black Bart on these occasions. He said you never knew when you would meet a rattlesnake. We all thought of him as physically very rugged. His sudden death was a shock.

Those summer trips always had an objective. One was made to demonstrate the aerial planting of trout fingerlings in high mountain lakes. It was quite a show. Planes plummeting out of clouds to tree-top level. One or more members of the Fish and Game Commission usually went. Sometimes a member of the legislature. Tom Lynch, the attorney general, who was a close, long-time friend of Pat's, went on many of them. DeWitt "Swede" Nelson, director of

Warne: the Department of Conservation, was frequently along. Hugo Fisher, after he became administrator of the Resources Agency, went a time or two. Assemblyman Jerry Waldie. Judge Stan Arnold, a personal friend of Pat's, went at least once, into the Trinity Alps with us. Bill Peterson of the United States Forest Service was along more than once. There were others, but the hard core of the group that made up the packing trips consisted of fish and game people, Shannon, Calkins, et al, and myself and Governor Brown. The governor loved those outings and talked about them for months. He never won very much at poker, but he tried. He was the only one who consistently plunged into the icy waters of whatever lake we were camped beside before breakfast each day we were in camp. "You a sissy or something?" he would ask, splashing around like a walrus, those who managed to dip a foot in--and pull back.

In any event, at the same time this was going on in fish and game, Governor Brown set up a task force, a series of task forces, under Charlie Johnson, really, to plan the reorganization of the state government. I remember that I was drawn into that business right away. There's where I first worked with and got well acquainted with Jim Wright, who was in the Department of Water Resources and who was working on this, and with Neely Gardner, who at that time was with the personnel board, training officer for the state, and whom I later brought into the Department of Water Resources as a deputy director.

We brought in the report that set up the agencies, including the Resources Agency which eventually I headed for its first sixteen months. I didn't have that in mind at the time that we set up the plan. I served as administrator simultaneously with my service in water resources.

Chall: That was called the Winton Bill. Were you working with Gordon Winton to get that through?

Warne: Yes, I appeared, I think, on all of the hearings of it. Gordon and I became good friends.

Another thing I did that year was very interesting to me. I said that there wasn't any legislation particularly important to the Department of Fish and Game. However, fish and game at that time was the major force in the anti-pollution programs of the state. They brought in--someone brought in--the water pollution control legislation of 1959. This got into a terrific controversy.

What was his name from down in San Francisco? Assemblyman--

Chall: Still assemblyman?

Fish and Game Operation Golden Trout. William Warne, director of the Department of Fish and Game, issues a fishing license to Governor Edmund G. (Pat) Brown at Lone Pine. August, 1959.



Fish and Game Operation Golden Trout. The Governor's party at camp in Big Whitney Meadow. August, 1959.



Governor Brown's party at the annual pack trip, camped beside the lake in Marble Mountain Wilderness Area. September, 1965.



Warne: No. He's been out for a long time. But he was then the chairman of the committee or a subcommittee.

Chall: We're talking about year, maybe 1961?

Warne: No, I think it was '59.

I'll find him in a minute. Looking through here, you see some of your old friends that you haven't thought of in a while. [looking through Legislative Handbook] Meyers! Charles W. Meyers! He had this bill in charge, and he got into such a terrific controversy with the Manufacturers Association, water users, and sportsmen, that he couldn't make any headway with it. So Charles asked me to get all of the interested people together and work out some amendments to his bill. I remember a meeting that was held in one of the hearing rooms in which we rewrote that blooming bill. I said, "Yes, that will be acceptable; no, that won't be acceptable. No, this can't be done; yes, that can be done." They wanted to amend out fish and game's right to blow the whistle on polluters, I remember, and we said emphatically, "No!"

We gave the revision to Charles and he amended the bill and it passed, which amazed me since the opposition had been lined up at the outset, manufacturers' associations--everybody! Every special interest in the state was in there one way or another. But it was a pretty good piece of legislation when we got done. This grew out of two things, really: the Department of Fish and Game's insistence on a more aggressive program to clean up the waters, and the fact that everyone involved accepted me, a newcomer, as a third party, I guess, a referee.

This legislation retained the old policies of the 1949 act and strengthened the hands of the State Water Pollution Control Board, as it was then called, and of the regional boards to control waste disposal to maintain the highest quality consistent with maximum use of the waters. Technically, the regional boards were authorized to revise waste discharge standards in the light of new demands on the water resources, to demand that under certain conditions no discharges would be permitted, and at the boards' discretion to limit discharges short of the full assimilative capacity of the receiving waters. I thought that it would have been better if the state board had been given a stronger role. I served on the state board for eight years as director, first, of fish and game, then of agriculture, and finally of water resources. I was vice-chairman for a year or two and always took a significant part in the board's activities. Our [state board's] principal function was to allocate federal loan and grant monies to local agencies interested in cleaning up their wastewaters--or so it seemed to me. The regional boards had most of the operating authority, and all of the initiative.

Chall: Then are you talking about a change that was made in 1959? Because there was another change in, what, 1963?

Warne: I can't tell you for certain.

Chall: It was the Meyers Bill that you're talking about. I'll check into that.

Warne: There was another one later on.

Chall: The one later changed the water pollution control board to the water quality control board, changed the name and, I guess, as a result of that, some policy.

Warne: That was a later one.

Chall: That was '63. I wasn't familiar with the one that came between. Did it try to upgrade the quality of water?

Warne: Yes. The big fight was whether we kept intact the fish and game's right to enforce the water pollution restrictions in order to protect the fisheries, and whether we gave authority to the regional boards to act more forcefully and with more discretionary leeway.

Chall: But weren't there already committees set up within each region?

Warne: Yes, the regional boards--nine, I believe--already existed. That's a very interesting story, though. We had these regional boards and no one in Sacramento paid much attention to them. I found later on that one of my little headaches was going to be to go through all of those regional boards and reconstitute them. That is, we found that some people had been appointed to four-year terms and they'd been on the board ten years without anyone paying any attention to their assignments. These people were most unresponsive to any influence whatsoever from Sacramento. I did this for Pat later on. We went through the whole list.

The state board's chairman was A N Rawn, who philosophically was committed to local control of the water pollution program. He was not interested in having any effective review at the state level of the regional activities. The California Manufacturers Association, represented by Lou Nichols, whom I had known slightly in university days--he was a star member of one of Cal's football Wonder Teams--was adamant that the regional boards should remain the scene of initial and, he hoped, all action in controlling water pollution. The regional boards were easier to influence since the law required them to represent special interests, including industry, and because many of the members were over-term and cared very little about what went on in Sacramento in the way of policy formulation.

Warne: Members of these regional boards were subject to appointment by the governor. After their four- year terms ended, however, they continued to serve until their successors were appointed. But for years no successors were ever appointed. The governor wanted, and I wanted, a stronger control exercised over the program. I looked into the status of the regional boards and found that, with very few exceptions, all the members of all of them were serving beyond the limits of their terms, and some of the boards had been reduced to bare quorums by deaths and the moving away of old members. I talked to Pat about it, and he said that I should go through the lists and make recommendations for the appointment of new members who might be more active and more responsive.

It took months to make the reviews. I had suggestions from Paul Bonderson, who was executive officer of the state board, and some alert individuals in the regions. It must have been years, and the 1963 water pollution control law was enacted and the regional boards were expanded by the inclusion of public members, before the governor was able to act on recommendations for reconstitution of all of the regional boards. We looked for Democrats, but highest on our list of qualifications for candidates was a willingness to serve and apply an independent judgment to the problems encountered in the regions. Neither I nor Pat Brown knew what the politics were of a considerable number of his appointees to these boards.

Chall: I see. Was that while you were Resources Agency administrator?

Warne: No, that's while I was the director of water resources.

I went over to see Pat. By the way, I call him Pat when we're talking here, but I never called him Pat, except when we were alone, while he was governor. I always addressed him as Mr. Governor or Governor Brown. That's without exception--if anyone else were present.

Chall: Was the formality generally what it was in Washington?

Warne: It's not that formal, but--no, it isn't as formal as it was in Washington. But I used the same protocol that I had used in Washington. I think it had an influence on the way...

Chall: On Pat Brown? Or the way other people looked at him when you were working with him?

Warne: On the way other people looked at him. I think it also influenced how other directors acted toward him too.

Chall: That's a good point.

Director, Department of Agriculture, 1960

Warne: Well, I went over to see him. I had made up my mind that I had done all in fish and game I was going to be able to do [chuckles] and so I went in. It was early December, 1959. Hale Champion was there, too. Before I had any opportunity to say anything, Hale said to the governor, "I think, Governor, it's time to put the bee on Bill to go over and take that job in agriculture."

I said, "I don't know what's going on here. I came over here to say that I thought, really, that I had about exhausted the possibilities of me doing anything further in fish and game, and I thought perhaps another assignment would be better."

The governor said, "Well, you know, [W.C. "Jake"] Jacobsen is director over there and has been for so long a time, he's talking about retiring, and he ought to retire. I'd like to put someone over there, but I just don't like the names that they keep coming up with. Would you go over and take that job?"

I said, "What am I to do over there?" He said, "The outfit is just absolutely dead. It needs straightening up. You know, it's just a tool of certain of the agricultural interests and it needs the kind of input that a real strong director might make and give it a little personality of its own."

"Well," I said, "you know I'm not an agricultural expert. I've done a good deal of work in land reclamation. I've administered agricultural programs abroad. I worked some in Washington with the Department of Agriculture or against them when I was in the Department of Interior."

"Okay," he said, "why don't you go over on the first of January and take that job over?" I said, "You talk to Jacobsen about this? [laughs] You tell him." "Well," he said, "I'll talk to him right now and I'll also talk to the committees." So that's the way it turned out. Jake was a fine old man and he had been in agriculture in one capacity or another at least since 1917. I went in on the first of January.

Chall: So Pat Brown really was giving Jacobsen only about a month's notice. But Jacobsen would have expected this anyway because he was a Knight appointee.

Warne: Well, yes. But I discovered those people who stay on from one administration to the next never expect what happens to them. Now, I had gotten pretty well acquainted with Jacobsen. He was in the governor's council and I was in the governor's council, a fairly

Warne: active member. I don't recall specifically, but we had worked together some. He was on a couple of the same commissions I was, water pollution control among them.

I went over to see him. It must have been near the end of his tour. I wasn't so sure after that meeting that he was as anxious to retire as I was before I went. [chuckles] I remember I went into his office. He had an office about as big as this, with two tables--large--you know, those fairly long tables, ten feet long or so--piled up with papers [shows stack about one foot high]--whew!--stacks that covered both tables!

I said, "Jake, are you going through your papers?" "Oh no," he said, "those are some of the things that I keep in here to work on."

After talking with him a while, I went out. Didn't have much to talk about. I went out and said to Ethel Richert, who was his secretary, "Mrs. Richert, do you want to stay on as my secretary?" She said, "I'd be glad to, Mr. Warne." I said, "What are all those papers in there on those tables?" She said, "I don't know. I have strict instructions not to touch."

I didn't say anything more. I went down to Pasadena. Mrs. Warne was ill, between Christmas and New Year's. I came back up here on the first, or maybe it was the second--I've forgotten--and was sworn in. And that office was just cleaned out completely!

I said to Ethel, "What about those papers?" "Oh," she said, "you know, he cleaned off his desk and left two or three days before the end of the year. I was so glad to get the opportunity! I got three of the girls; we went in there and took all those papers off the tables. I looked at them and they were all from the files. Some of them had gone back to 1917!" [laughs]

Chall: He had been piling them up?

Warne: I said, "What happened to them?" She said, "I just sent them around to the file room."

Chall: So much for historical material.

Warne: It wasn't historical material.

Chall: Just bulletins mainly?

Warne: Oh, correspondence and bulletins, little reports, all sorts of things that he always thought he'd get around to. If he did get around to them, he wanted to have the whole file right there. Of

Warne: course, that meant that material wasn't available to anyone else in the department. That's about the way the department had been run.

Charles Dick was the assistant director. I was very pleased to work with him. I think he had some problem of adjusting at first because my style was quite different from that of Jacobsen. But we got along fine, and Charlie worked well.

Now, there is a California Farm Board, too. I think it's now called the Commission on Food and Agriculture. It's quite a different functionary from that in the Fish and Game Department. The Fish and Game Commission actually makes the regulations. While its administrative authorities are not very positive, it directly influences a lot of activity in the Department of Fish and Game, whereas the farm board...

Chall: I guess I call it the State Board of Agriculture.

Warne: State Board of Agriculture.

Chall: All right.

Warne: The State Board of Agriculture is strictly advisory. The director of agriculture makes a report to it once a month and the university makes a report on economics and labor conditions, which I always thought was a rather silly arrangement.

Chall: Is that what their concern was? I know they always had a university person on that board.

Warne: Not only that. They had a staffer to that board.

Chall: Yes. And that was Romain Young?

Warne: Romain Young was with the Agricultural Extension Service. He was actually on the staff of the department.

Chall: He was the executive secretary--

Warne: --of the board.

Chall: You said there was also somebody else from the university?

Warne: Thorn. What was his name? [musingly] He was an agricultural economist who reported every month right along with the director of the department.

Chall: What was he? Where did he come from?

Warne: He came from the university at Davis.

Chall: I see.

Warne: The university is an amazing bureaucracy.

The state Department of Agriculture has nothing to do with research and extension, unlike the United States Department of Agriculture.

Chall: That's done by the university.

Warne: That's done by the university. So in effect, you've got two departments of agriculture: the university, of course, since it's outside the state government, keeps an arm's length position in Sacramento. It reports to the Board of Agriculture just the same as the director of the department does.

Now, the Department of Agriculture here in California, most casual observers think, is a state counterpart of the federal department. "Tain't so." It has virtually no functions that aren't regulatory in nature--marketing and regulating are its functions. The Soil Conservation Service is not in the Department of Agriculture; the state forestry is not in the Department of Agriculture; the extension and research functions are not in the Department of Agriculture.

Chall: That hasn't been changed at all, has it?

Warne: No. What is in the Department of Agriculture are the marketing agreements, cooperative crop reporting, regulatory functions over pesticides, crop dusters, et cetera, et cetera, weights and measures supervision, and brand regulation. The department had fifty-four boards, as I remember it. One of them was the brand board. On each one of these, membership was avidly sought by farm politicians.

I, one time, decided that so many people were trying to get on the brand board that I ought to go and see what the hell it did. So I went to one of its meetings. [chuckles] That's the last one I ever went to.

Chall: What were they interested in? Just brands as such?

Warne: I found people whose grandfathers had a ranch and established a brand. Though the land had all been subdivided, now still they wanted to maintain their brand and protected this with...[laughs] It's just amazing.

Chall: It's really an anachronism.

Warne: It's an anachronism without any question. But then, the whole darn department is an anomaly, if not an anachronism.

Chall: That department, as I recall, was not brought in under the Resources Agency.

Warne: Yes, as a matter of fact, it was.

Chall: Was it left out in the final plan?

Warne: It managed to get out from under it. It was taken out. This is the first meeting of the Resources Agency staff. [shows picture taken from wall] What's the date--October 10, 1961. Here's Charles Paul, who was the director of agriculture at that time, in the meeting. Now, here's Charlie Dick, who was his deputy; my deputy when I was in agriculture, and later Paul's deputy. So they considered themselves a part of the agency at that time, and I did too. The governor, however, yielded to the pressures of the agriculture community and took agriculture out.

The farm interests wanted the director of agriculture to be a member of the governor's cabinet and have direct access to the governor and not to report through anyone else, which was a very silly thing, at that time at least, since the governor's cabinet seldom met. Also Pat Brown was always available to department directors, so far as I observed, before and after the agency was established.

I told Paul, and I think he agreed with me, that he'd be better off in the agency where he'd have a closer relationship with the Department of Conservation, the Department of Water Resources, and the Department of Parks and Recreation, and some others that had programs and problems that impinged on agriculture. I think he agreed. Some of the other elements in the state wanted what they thought was a more direct avenue to the governor, and they prevailed. The fact that I was the agency administrator might not have sat well with some farm leaders; I do not know.

Chall: What were you able to do with this department? You were in there for about a year.

Warne: The thing I did with the Department of Agriculture was to reorganize it, which I didn't do in fish and game. In this department, we reorganized the staff completely. I simply made fish and game's organization effective. Two things I did in agriculture: first, I sort of broke the umbilical cord to the agriculture council, which was not the Board of Agriculture, but was a meeting of all the

Warne: specialized interests in agriculture, by declining to go over the annual budget with them before it had been submitted to the legislature. This collapsed somewhat their influence over the department.

Chall: The council was made up of growers?

Warne: Growers' associations, right. Farm Bureau. Grange.

Chall: I see. Representatives from these various groups, is that it?

Warne: Yes.

Chall: And it was informal, yet formal?

Warne: Informal, but it really thought it was in charge. And I guess had, actually, been, apparently. Theretofore, each individual element in the department had cleared its proposed program for the coming year with the lobbying organization most affected by it before the program was made up, before the budget was completed.

Well, I wouldn't do such a thing, nor permit it to be done by offices within the department. I didn't mind discussing what the program was in general terms, but to show them the individual budget items...It was kind of an icy meeting before we got through, since these people thought they were pretty important. They protested to the governor. I got a call from Hale Champion, "What goes on, Bill?" I said, "I'm just protecting your right to review the budget before it is made public." He said, "They really raised hell at the governor's office." [laughs] I said, "I don't believe in working that way. I'm working for the governor and not for the Farm Bureau Federation."

Chall: What were your relations with the Farm Bureau Federation?

Warne: Very cool thereafter.

Chall: It was? Was Alan Grant, at the time, or someone else the president?

Warne: I think Grant was the president or the coming-up president.

I attended a couple of their board meetings down in Berkeley. They had their offices down there. [George] Sehlmeier, who was in the Grange--he and I were old friends from the days when we fought the 160-acre battle down there together in Washington. But most of the movers and shakers in this were people who were chairmen of one of these advisory committees or marketing order governing boards, that kind of thing.

Chall: And the cooperatives.

Warne: Co-ops. Sunkist. I even went down to one of their meetings, I remember, in Los Angeles. I never went to a Diamond Walnut meeting. I wonder why? I'm a member of Diamond now.

##

Warne: The Department of Agriculture, as I now recall it, was made up of twenty-four bureaus. When the department was set up by some legal reorganization in 1927 or some such time, the bureaus were collected from various and sundry places within the government. I guess most of them were just independent agencies, and made into a department. But they didn't put any superstructure on it, so that, in effect, the director was about the only thing above the bureaus, excepting the old agricultural board itself, the farm board.

Then when they changed the function of the farm board, which used to run the place, strictly to an advisory group, that left a department, as I viewed it, without any real structure at all. It was just a collection of agencies. What I did, I read a little study made by one of the bright young men over in the Department of Finance and by the personnel board. We came out with a plan to group these various bureaus into divisions. We established four divisions--as I remember it--four program divisions plus an administrative division within the department.

Chall: That you did.

Warne: Yes. Let me tell you something else about that department. When these bureaus were drawn into the department, they apparently had somewhat of a reorganization in almost each of the bureaus at that time, because I found that almost every bureau chief--and not only that, but most of the assistant bureau chiefs--had been in the same bureau from the time the department was organized.

Most of them were of retirement age, optional retirement. Some of them actually were at the point where they were at forced retirement. In setting up these four divisions, I picked four of the most active bureau chiefs, whom I deemed to be alive, and advanced them to division chiefs, which gave them more money and prestige and which emptied four bureaus. Eight other bureau chiefs retired at that point. Some of the assistant bureau chiefs retired too.

I think that in the year that I was there, more than half of the old hierarchy was either moved or left the department. This, for the first time, opened the department up so that people had a means of professional advancement, could see some kind of opportunity ahead.

Warne: While I suspect some of those old bureau chiefs didn't like it so well since they put on their hats and left, there wasn't much regret in the lower levels of the department at this.

As a matter of fact, to this day, I meet people still with the department who remember with great pleasure the fact that we modernized the department--and it was nearly twenty years ago.

Chall: Did that change the relationship with the farm groups on the outside, do you think?

Warne: In part it did because this put a different reporting procedure on several of these advisory committees or marketing order committees. It removed them a little farther from what they thought was a direct relationship through the director with the governor, which they never had anyway. Not with Brown, at least. He never met with any of them. I'll tell you, I don't think Pat Brown saw Jacobsen once in the year that he served there, except in such formal meetings as the governor's council.

Chall: How about other governors? Do you think that Warren or Knight--or was it pressure that they could put on governors even if they didn't see them a lot?

Warne: It might have been pressure. It might have been pressures too. Or it might have been that this gave them an opportunity to pressure committees of the legislature without anyone being the wiser concerning their relations with the governor.

Chall: So there was a lot of independence then.

Warne: Yes. Even independence from reality, as near as I could see.

Chall: Did they think you were anti the agricultural interests?

Warne: I don't know that they did. No. Because I at least tried to assure them that I was interested in the same things they were. I believe they understood that. I know that some of them greatly appreciated my work. But some of them didn't like to have these old forms changed. The agricultural interests in this state are pretty highly organized and for the most part are not responsive to any influence except their own personal objectives.

It always surprised me to observe the degree of attainment, the self-satisfaction, that a member of one of these many boards, not only in agriculture, but elsewhere in the government, associated with his membership, regardless of whether the board had any importance, or whether it ever did anything at all.

Warne: The governor took a few of the boards seriously, and deliberately tried to enhance their prestige, but only on the fishing trips could I arrange a meeting with Pat for members of the Fish and Game Commission. I don't think he ever met with the Board of Agriculture, the Water Pollution Control Board, or the California Water Commission, let alone the lower echelon commissions, such as the Reclamation Board, and the subsidiary boards and commissions in agriculture. In rare crises it might be possible for a director to get the chairman of his commission in to see the governor in his corner office in the Capitol. Pat Brown was a gregarious man and generous with his time, too. He simply had not the time to preen the pinfeathers of these boards. At times I introduced him to members of one or the other of the commissions with which I worked during those years when the governor was present at some public meeting which we attended.

One board, however, with which I was somewhat remotely associated, the one we called the State Fair Board, Pat recognized each year during State Fair Week in Sacramento with a formal dinner at the Governor's Mansion. These people were politicians with some agricultural association. Edith, my wife, and I were invited to nearly every one of these dinners. The governor was a good host and Bernice--Mrs. Brown--was a charming hostess. We thought the old mansion was a lovely, stately old building. Pat usually had a number of people climb up two flights of stairs to see his bedroom where he had a rope curled up handy under a window to slide down and escape if the place caught on fire at night. There was a good number of other occasions when Mrs. Warne and I were entertained at the mansion.

In later years, I would go over at 7:00 a.m. for breakfast with the governor--he and I alone--eating in the kitchen pantry--when I had a problem to discuss with him. He was ready to work anytime. Early morning. Late at night. I remember when I was director of water resources and the Feather River flooded at Christmastime, 1964, the situation got very critical. The director of water resources was vested with the authority, if an emergency were to be declared by the governor, to breach levees to direct flood flows away from cities and populated places and to take other actions, such as hiring large crews to fill and place sand bags, obtain the release of prisoners for such work, and such things. My daughter, Margaret, was home from college, and had gone with me to the flood emergency center that we operated jointly with the Corps of Engineers and the Bureau of Reclamation in the Resources Building. The staff said we might have to dynamite some levees. The partially completed Oroville Dam was holding, but tremendous flows were nevertheless being discharged into the stream through the by-pass tunnels. I called the governor on the telephone and he said that he would sign an emergency order if I would bring it right over to the mansion. Margaret and I went over carrying the order. It was a five-minute drive. The Browns had a family Christmas

Warne: Eve party in progress. I remember that Jerry Brown was there--all the children, I think, and many grandchildren. Margaret sat with them at the Christmas tree while Pat and I went into the dining room. He read and signed the order. Fortunately, the flood crest passed and we had to take no emergency action. But it was a close call.

Edith and I invited Pat and Bernice to our house to dinner. It must have been in 1965. We had the Emil Mraks and the Ira King Wilkins as guests. Wilkin was president of Zellerbach Paper Company, and a friend of mine from Cal. Mrak was in the class ahead of us at Berkeley. We were all Old Blues. The governor and Bernice were sociable and outgoing, as usual, and it was a great evening. Pat told me later that it was the first and only time since he had become attorney general that they had attended such a private, family dinner party. He enjoyed it, he said, but he doubted whether he could ever do it again while in public life. No time to spare for such relaxations.

Now, one thing more I did during that year 1960 which I spent in agriculture, an action which had wide impact. This was at a time when the campaigns against pesticides first were beginning to surface. There was rising opposition to the use of pesticides. Our department had the authority, the obligation, the authority and the obligation, to certify the use of these chemicals. I use "pesticides" here as we did then, as a term to cover all of the agricultural chemicals--fungicides and everything else--the growth regulators--all of them, they all came under the one classification.

I found, however, that our bureau that had charge of this didn't do a blooming thing--didn't think it was qualified to do anything, or authorized to do anything more than to see that the same chemical was in the bottle that the guy alleged he had put in it.

Chall: The purity of it.

Warne: That's all. You see, didn't make any appraisal of the efficacy or appropriateness of the pesticide, relying on the manufacturer's declaration.

I suggested, and the governor appointed, a blue-ribbon committee which was headed by Mrak over at Davis, and had representatives of many of the interests in the state, for general review of pesticide programs and their appropriateness. We held a number of hearings and in the end brought out a report which was in part reassuring. I think it led to some modification of the state program. It didn't forestall the eventual elimination of DDT, but it led toward it.

Chall: I see. You found that there were some environmental problems resulting?

Warne: Yes. And also I don't think we could have taken the jump from full endorsement of DDT to its--

Chall: --total withdrawal.

Warne: --total withdrawal without going through some kind of step in between and I think this was a pretty useful step in between. I remember we had the representative of the--I believe he was immediate past president of the California Medical Society on the commission, and people with some degree of credibility. It helped, it helped. Now, that probably was--outside of the reorganization of the department, which was thorough-going, with the change of more than half of the bureaus in a single year--the most important thing I did that year.

Chall: How did you hire the others? Some you promoted from bureau chief to a division head, and others you could go out and find on your own. Did you do that?

Warne: Yes. The department also had then, and I believe it still does have the responsibility of nominating to the counties the county agricultural commissioners. So we had a very elaborate process of examination, selection, and whatnot. In fact, that process was working fairly well. I didn't see any reason to change that. I never, in all of my association with government, tried to go outside of the system in the appointment of subordinates.

I discovered overseas, where I had all the authority in the world and no restrictions in hiring, that I couldn't do any better than the system could do, and as a matter of fact, I didn't think I did as well, so I would rather follow the system. As a consequence, all of the people that were advanced were people who took the necessary examinations and were reviewed, many of them, not even by me but by panels of people acquainted with our responsibilities.

Chall: These were all civil service people then.

Warne: We made them all civil service.

Chall: Even division heads?

Warne: Even the division heads, yes. Maybe I had the right to appoint them; I did select the division heads, but I selected them out of the department, without exception.

Chall: That makes them more loyal, too, I'm sure.

Warne: Yes.

Chall: As well as providing the expertise that you need inside.

Warne: It was an interesting year. I got acquainted with a lot of people that I didn't know before. I remember making a speech to the hay growers--they took over the Biltmore Ballroom, or maybe it was the Ambassador, or the Coconut Grove in Hollywood.

Chall: You wouldn't believe there were that many hay growers, would you?

Warne: No, and my God, they had movie stars on the program. Here is a poor little director of agriculture, coming down and making a dry speech to them, following Milton Berle.

Chall: Is that right?

Warne: It was funny! [laughter]

And the seed growers meet at the Ahwahnee Hotel in Yosemite. I really got around that year. I refused to go to the meetings that state farming organizations held in Las Vegas. I was opposed and still am to California organizations meeting in Las Vegas or other Nevada resorts.

Chall: Oh yes, out of state, that other state--

Warne: That other state, especially Las Vegas. But many of them did meet over there, you know.

II DIRECTOR, DEPARTMENT OF WATER RESOURCES, 1961-1967

The Appointment

Chall: Did you think that you might stay there forever in the Department of Agriculture?

Warne: Oh no, I didn't have any intention of staying there, and the administration didn't intend for me to stay there either. Even more than in fish and game, it was understood that--well, I think Hale Champion said, "Bill Warne is the doctor of sick departments" [laughter] and Pat said, "I don't want to change Harvey Banks over there in water resources until after the bond election. And therefore, I'd like to have you take on this agriculture assignment."

Chall: So you knew that ultimately you were going to get over there to the Department of Water Resources, assuming that the bond went through.

Warne: When I first went to agriculture, it really wasn't anything more than that kind of discussion. However, in July, 1960, Pat called me over to his office one day and said, "Look, I want you to move over to water resources. But I don't want you to move over there until after the election. I think that Harvey's been doing the negotiating with the Metropolitan Water District of Southern California, and others, and I think it might be disturbing if we made the change before the election. But, I don't want the impression to get out that he's going to be the one in charge when we build this project. I want someone over there who can handle it." So, he said, "What I would like to do, I would like to announce about September first that Harvey is going to retire after the election and you are going to be the director of water resources."

I said, "Now, look, Governor, don't do that unless...It would be self-defeating if you did that before Harvey has agreed to it. He's in Spain right now on some kind of a trip." He said, "Yes, that's part of the trouble! He's over in Spain; he ought to be here fighting this election campaign!"

Warne: I said, "Nevertheless, you ought to take advantage of the fact that he's committed on this bond issue and he's got a following that is lined up on it. Let's make sure that he's in agreement with this before any announcement is made."

So he said, "Okay, we won't announce it until he gets back. He'll get back about the first of September." This was maybe in mid-August. So we held a meeting in the governor's office just before Labor Day. Harvey was there. I was there. I don't think anyone else was there. The governor said, "Harvey, we'd like to make the announcement that you're going to retire and Bill Warne is going to become the director." The governor said, "I'd like to make that change about December 1."

Harvey said, well, he'd been thinking maybe he wanted to retire. He wanted to take advantage of the fact that he had some marketable abilities, to get out where he could do something more, make a little more than he could just as a director in the department. But he didn't want to retire in December. He wanted to retire after the first day of January. I believe that is the way he put it. It had something to do, he said, with his retirement pay.

Chall: I wouldn't blame him for protecting that.

Warne: It meant something in his retirement. So the governor said, "Is that okay with you, Bill?" I said, "It's all right with me." So that's the way it was arranged.

Between the time of the election, which was in November, and the first of January, Harvey used to consult with me quite frequently on the telephone. He said that he didn't want to do something as the outgoing director that was going to embarrass me. He completed a couple of very significant operations in that time. I guess the Met [Metropolitan Water District] contract was signed a few days before the election, but the question about whether there would be another contract in Southern California was very hotly debated. Met didn't want another one with a water service agency down there south of the Tehachapis.

Harvey had negotiated with the San Bernardino Valley Municipal Water District and they had a contract ready to go. He called me and said, "Well, San Bernardino is ready to sign this contract. I'd like to sign it since I negotiated it and carried it this far. But I don't want to sign it if you want to sign it. You might find it advantageous to have me sign this one. It will take some of Met's heat off. Are you agreed we should have more than one contract in Southern California? South of the Tehachapi Lift."

Warne: I said, "Yes. I don't want to undermine the Metropolitan Water District, but at the same time, I don't want to give them a monopoly on the project in the south." He said, "Okay, then, I'll go ahead and sign this contract," which he did. Of course, that left me with the problem of fighting with Met for six years on the east branch.

Chall: Oh, that's what the East branch was all about.

Warne: But, at the same time, I think he was right and I was right, that we ought to have done it that way. I signed several other contracts in Southern California, later, which irritated the blazes out of Joe Jensen, particularly.

Chall: Did Brown think that there were enough people in the state--water people--and in the government who really were concerned about who was going to manage the water plan and direct the department after 1961, that he wanted to make this announcement prior to the day of the election?

Warne: He never told me, for certain, all of the considerations that were driving him at that time. However, I had the feeling, was given the impression, that he had intended all along that I was eventually going to be director of water resources. I think he had the feeling--I got the impression--that immediately after the election, if he didn't have the announcement out, he felt there would be a lot of pressure on him to appoint somebody or other, and he wanted to avoid such a situation. He might already have been importuned. He didn't say.

We were going to be dealing with some very big programs and he wanted to make sure that--at least, this is the way I thought about it--he had the program under control, that he didn't have to accept someone as water resources director for political reasons who had either started taking the project apart or who would let the fact that he was dealing with very big sums of money go to his head. I had handled big programs. The governor, I thought, didn't want someone who would be unduly influenced by some of the special interest groups in the legislature and at large.

Chall: Yes, because it was still touchy.

Warne: It was still touchy then, really touchy. That was really the hardest year that we had.

Chall: That's right, the year following the election. That was astute, thinking ahead.

Warne: You know, Brown is a very good man. I think of all the people that I've worked with, and that includes Ickes, [Julius] Krug, [Oscar] Chapman, secretaries of the Interior Department; and [Henry Garland] Bennett, Stassen, Hollister, and Jim [James H., Jr.] Smith in foreign aid; Elwood Mead, John C. Page, Harry W. Bashore, and Michael W. Straus, commissioners in the Bureau of Reclamation--I think that Pat Brown was the best administrator among them.

Chall: How do you define a good administrator? What do you look for?

Warne: I look for one who has in mind, and is able to convey it to you who are trying to get the job done, what it is he's seeking, and then permits you to go ahead and achieve it, who holds off any of the pressures that may be applied, and supports, and follows, and understands what's going on in your program, and if he has to make his contribution, which Pat did from time to time, makes it in a way that is constructive. He's very good. I tell you, I learned very early that he had the good lawyer's trait of being able to read and understand and retain material sent to him.

While he was a very busy man, not once or twice, but many times, I sent a memorandum over to him, presumably trying to keep it reasonably brief but nevertheless succinct to cover the subject, and I never found the time later in talking with him, when he hadn't read my memorandum, understood it, and remembered it. That's pretty good, pretty doggone good.

Chall: Gratifying to an administrator, to know that the chief was paying attention.

Warne: I asked him what he wanted me to do when I went over to the Department of Water Resources. He said he wanted me to build that project, the State Water Project.

Chall: [chuckles] A minor matter. Just build the project.

Warne: I said, "Okay. That's what we'll do. I will build it in accordance with the plan that has been adopted and if we make any changes in the plan that are significant, I will let you know and check them out with you beforehand. Nothing is going to be changed without your knowledge."

I don't know how many memos I sent over when project decisions were imminent, but there were many of them. And he reacted to them.

Chall: So he was familiar at all times with not only the basic plan but changes?

Warne: About anything that indicated a change.

Chall: It had to be a significant change, but there were many that were being offered at the time, I guess, that he considered...

Warne: Lots of things that were changes. For example, when to start construction of the Oroville Dam was one. The plan was that the Oroville Dam should be started--as a matter of fact, Harvey Banks had obtained authorization earlier than the Burns-Porter Act for construction, and he started relocating the railroad and the highway in the Feather River canyon.

Here we had an investment already in the dam of maybe \$37 million--it's a figure that quickly comes to mind. It may be wrong. But it was a substantial amount. When the Charles T. Main report was made, the consultants indicated that we might not need the Oroville Dam as quickly as the department had originally planned. The department was pretty nearly ready on Oroville.

The governor, on January 1, 1961--it might have been a week later than that--advised the legislature. They were still uproariously debating whether we should have the project or not, despite the fact that the electorate had just voted the bond issue to build the initial facilities of the State Water Project. Our law--constitutional provisions--had been interpreted to mean that if we sold one of those water project bonds, the legislature could not amend the Burns-Porter Act in any way that would materially affect the program to the point of jeopardizing the security of the bonds until after the bonds had been repaid. That was going to be quite a few years, seventy-five or so years during which the project could not be tampered with.

So, Governor Brown told the legislature that he would give them a session to amend the Burns-Porter Act, the review it and to see if any changes ought to be made in it, before bonds were sold and the final commitment was made. That session went, I believe, through August the twentieth--something like that--of that year, 1961. Well, this was the most controversial period I ever experienced. I announced that, until the waiting period was over, we're not going to start any construction. We will not sell the bonds until after adjournment, so that if you want to modify the law in the meantime by striking out or putting in some facility or otherwise, you can do it. That isn't to say that we won't come over to the legislature and oppose you. That I did. I spent the whole darn spring over there opposing these silly things, the most dangerous of which was a move by George Miller to deny us the use of the provisions of the Central Valley Project Act.

But in any event we had Oroville Dam ready to go and then waited until this kind of thing was out of the way before we advertised for bids on the construction. Then the question came up whether we ought to delay the dam in view of the Charles T. Main report.

Chall: I see. There was still that...

Warne: Still that question whether the dam construction ought to be delayed. That wasn't the question before the legislature. The question regarding the dam was pending after the way was cleared for marketing the bonds. I remember the governor talking to me about it, and he understood what the issues were. I said, "Well, Governor, we've already got that money spent up there. You'll never build it any cheaper than now. The longer we delay, the more the dam is going to cost. If we're going to delay it to save money, that's wrong. We'd better build it now. Furthermore, we're ready on it, and it's the key feature of the whole bloomin' project. So my recommendation is that as soon as we get all of this out of the way, we go ahead with Oroville Dam." He said, "Okay!" [crisply]

So I sent him over a memo and he signed it and that was that. It's darn fortunate. We saved the whole Feather River Valley in that flood in 1964-65 with the partially completed dam. Just fortunate, really.

Organizing the Department to Build the Project

Chall: I wanted to stay today with the organization of the department. Now, I have a letter which you wrote to Preston Hotchkis outlining the reorganization of the department.

You said, [reading from letter] "I'm sending you the enclosed brochure to describe the organization of the Department of Water Resources because I think you'll be interested in the past year's progress in making the department a growing organization." And then you went into that. I didn't see the brochure, but I thought that perhaps during that first year, when the legislature was taking its time to go over the project, you were probably reorganizing the department, getting ready to build.

So I thought I'd like to find out what your plan was before you got into some of the problems that you then had to face. What did you do about the department, since you were the director of sick departments? I don't know that that was a sick department; it just hadn't been geared up to build the project.

Warne: The Department of Water Resources was not sick, but it was not organized or staffed for the new job. I mean, it was like dropping a ton of bricks on the department to give them a project of this magnitude.

Warne: The first thing we did was to set up a chief engineer. I talked that over with Harvey before he left and he had actually started the personnel processes on recruitment of a chief engineer. It seems to me that the personnel board got to the point of interviewing chief engineers, even before I went over to the department.

I was made the principal interviewer. And you know how those-- maybe you don't--how those personnel board interviews go. They select from people who are deemed to be qualified and then call in the top three or so. In a really important job of this sort, the director, and at least two other people who are knowledgeable in the general field, will be on the committee to do the interviewing.

I don't remember how many we interviewed. I remember one general who had just retired from the Corps of Engineers and Al [Alfred] Golzé, who was then the assistant commissioner of the Bureau of Reclamation. I had worked with Al many years before. Al had set up, for the Bureau of Reclamation, a program control operation and had also spent time in the Bureau of the Budget, now the OMB [Office of Management and Budget] in Washington, in program review for all of the public works agencies, primarily the bureau and the corps.

I could see that our biggest job in building this project was going to be that of formulation of the construction program and the control of it, not only the fiscal control but the management of the work, keying in the various elements into the construction program: personnel, land acquisition, getting out the contracts, and executing them. It was to be quite a job. So, I was very much interested in a chief engineer who had the technical qualifications that you'd look for in that position, in the construction field, but also who knew his way around in those program management and control operations.

Chall: That's quite an order, isn't it?

Warne: Yes, it is and there were very few men who could have done the job as well as Golzé did. None, probably.

Chall: Golzé was the one you hired?

Warne: He was the one we hired. He was there as chief engineer throughout my administration. Oh, maybe he came in a couple of months after I got there. Then he stayed on. [William] Gianelli, who succeeded me, reorganized the department some, feeling that he wanted to be the chief engineer himself, or at least obtain engineering control. Golzé stayed on as assistant director after that until he retired.

Warne: The program control operation was one of the primary points that we had reference to in this letter to Pres Hotchkis. Another one was the organization of the department under Golzē with a brand new design and construction branch. There we had to people it, and we had to organize it. We had to set up all of the rules and regulations and procedures and everything concerning the construction program. It was one terrific job.

Chall: Who helped you with it? This was even a greater kind of organization than even you had done before.

Warne: Yes. Well, I had set up some things when I was overseas that somewhat matched this, but there again, the job was not as pervasive. I had the experience, however, of setting up complex organizations and jobs.

Chall: You knew what to look for.

Warne: Yes. But we didn't have the detailed responsibility overseas clear down to seeing that the stuff was placed in the site that we had here in the department.

Chall: And this was only part of your work as a director.

Warne: Well, it was an interesting part.

Chall: Yes, but now, this particular program, building the aqueduct. How did you go about even formulating what you needed, formulating your organizational structure and your procedures? How did you determine this? With whom?

Warne: I knew I wanted an organization that would function, and I was familiar with the Bureau of Reclamation chief engineer's office, having served in the bureau for twelve years, and part of the time at a pretty high level--assistant commissioner. So I knew the kinds of things we needed. However, the bureau never had as sensitive program control as I thought we needed here.

The best thing I ever saw before we organized our own program here was one that the chief of engineering showed me that they had in the Corps of Engineers. It was more general and not as precise, but it did have in it the elements of what I thought we needed here, so that each month they had a measure of progress and a statement of problem, if any new ones arose, on each project.

Sometimes, their projects were so big that this was like broad landscape. We had to get down to the crops that are growing in the field, you know. So we had to set up a program control system. Golzē was very active in that, so was Neely Gardner, who by that time was on board, and Jim Wright. They made a first stab at a

Warne: solution very early and then took about six months of very earnest work to develop the plan in all of its specifics. They had staff help.

We instituted the plan of program control and set up an office of budget and program. [searches through papers] I was just looking through this this morning. That's one of the things that we did which was new. Then we organized the chief engineer's office so that he had charge of all engineering in the department, with a planning division that was already well developed, pretty well left on its own, but the construction and design sections were matters of primary concern.

Al brought in some experienced people like Charles Carter, who'd been the supervisor of construction on the Upper Colorado River project of the Bureau of Reclamation, and whom I'd known for thirty years myself, from the early days in the bureau. And he brought in H.G. Dewey, Jr., commonly called Admiral Dewey, who was from the Corps of Engineers. We had about forty new people, and only two or three of the top echelon in D. and C. [Design and Construction] were old-line department people.

Chall: They'd been doing it for years.

Warne: They had done designing and they kept it. The design was under the direction of Donald P. Thayer, who had been in the department. But the construction section was new. We had to recruit people over the country. We got special permission from the personnel board to do our own recruiting of engineers.

##

Warne: We set up a recruitment program and sent some of our best people out: an engineer, a personnel representative, someone from the personnel board, not only to interview, but also to interview and hire, directly, associate engineers or assistant engineers right out of the colleges.

We went all through the East and Midwest and--

Chall: [shows ad] I have an ad here that must have been put out by you.

Warne: Yes, that's one of them. [reads from ad] "Campus interviews will be held March 19 and 20, 1963." Where was this?

Chall: It's been in our files for so long, I really don't know.

Warne: Well, I don't know where this one came from.

Chall: It isn't the college newspaper, maybe the Berkeley Gazette.

Warne: You think this is in California?

Chall: Oh yes, I think so.

Warne: We put these in the Tennessee Valley. We put them anywhere there was a good engineering school or a cluster of them.

Chall: The back of this would indicate: corner of Telegraph; I think that's Oakland.

Warne: It's either the Gazette or the Oakland Tribune.

Chall: Right.

Warne: Okay, that's one thing we were doing [enthusiastically] that was utterly new. It had not been done by our department or the state government. But we had quite a ways to go. Not only did we recruit widely across the country, but we put those people in special programs when we got them. Our supervisory engineers said it took about six months on the job before the recruits became productive, so that we put a terrific investment into building up the department.

Chall: It's worth it, though, I'm sure.

Warne: Well, it made all the difference in the world.

Chall: Did you have a good budget right away for getting all of this accomplished, hiring and...

Warne: We had the right to use water funds for project purposes, including administration, so that the legislature did not appropriate our administrative budget except that which was devoted to non-project activities within the department. So our budget was under our control insofar as the project was concerned, the management and administration.

We had to take our appropriation requests over to the legislature for departmental activities. I'll tell you about one of my efforts to organize the department. I had a lot of trouble with it in that regard. Well, we can come back to this general question of what did we do.

I decided that with the department undertaking these programs all up and down the state, new relationships with water-user organizations and groups would develop from one end of the state to the other. Construction activities and, obviously, activities related to land acquisition, and that kind of thing, would be scattered. I thought we needed representation that would be closer to the people than Sacramento.

Warne: So I thought we should set up district offices. We had a district office in Los Angeles. The department worked very successfully in Southern California. I wanted to get district offices in the other places, too.

Chall: They hadn't been there before, though.

Warne: No, no district offices except in Los Angeles.

We talked it over with the staff and we put it in the budget. Since these were not necessarily strictly project-related activities, we had to take this request for funding the district offices to the legislature. We set up new offices in plan in Red Bluff, Sacramento, Fresno, and San Jose. The budget was moving through the legislature without any hitches. I even announced who was going to have the jobs, circulated the staff to see who wanted to go to these various places to fill the new positions. Some of the men had sold their houses and were getting ready to move.

This matter got clear into the conference committee on the budget the last days of June! [laughs] Unbeknownst to me, old George Miller thought he saw a way of getting even with the department, I think, or getting even with Bill Warne, because we had prevented his efforts to make changes in the project act in 1961.

George announced that they were going to kick our district offices out of the budget. Right at the end! I was dismayed. Suddenly a big furor arose. The local chamber of commerce said, "You're going to move your people out of Sacramento!" Terrible. Terrible. The Bee ran an editorial against our decentralization. I mean, it was a good propaganda operation that someone organized against us. Just sprung into being like that.

There was a senator named [James J.] MacBride who was from Ventura, who was chairman of the conference committee. I protested to Governor Brown and he got MacBride in. Here's the last meeting of this conference going to be held that night! MacBride said, "Well, George is insisting. Anyway, Warne has never been down to my district."

I said, "Why, Senator, I had lunch with you at the so-and-so Beach Hotel down there." "Oh," he said, "yes, I remember that now." The governor said, "Don't you think you could get this item in?" MacBride said, "I'll see what I can do about it." Poor old guy. He died of a heart attack before the meeting was held, and they kicked this item out of my budget. And there I was, without any authority to go ahead with this plan. I really had to eat crow. The staff was upset.

700 miles from border to border

WORLD'S GREATEST MASS MOVEMENT OF WATER IN CALIFORNIA

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The greatest mass movement of water ever conceived by man is charted to become a reality in California's State Water Project. Construction has begun. Also referred to as the Feather River Project, it provides for a series of storage reservoirs, aqueducts, pumping plants, and other conveyance facilities to move some of northern California's abundant water supplies to deficient areas throughout the rest of the state—over a distance of more than 700 miles. Among the most spectacular features of the State Project are the Oroville Dam; the Delta Project, and the California Aqueduct. *Oroville Dam* will be the world's highest zoned earth dam. The reservoir, with a storage capacity of 3,500,000 acre-feet and 167 miles of shoreline will impound Feather River water for power, flood control, industrial and agricultural use, and recreation. *The Delta Project* will utilize the joint delta of the Sacramento and San Joaquin Rivers as a natural reservoir. It will repel intruding sea water and salvage from loss to the ocean 2,000,000 acre-feet of fresh water annually for transportation to areas in need of water. *The California Aqueduct* will move northern surplus water from the Delta, through the Central Valley, 3,200 feet uphill across the Tehachapi Mountains, to the semi-arid areas of the Southland. Other integral parts of the State Water Project include the North and the South Bay Aqueducts, the San Luis Dam and Reservoir, the Coastal Aqueduct, and the West and East Branch in Southern California.

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CAMPUS INTERVIEWS WILL BE HELD MARCH 19 AND 20, 1963

For an appointment for interview, please register at the Placement Center. Informational literature is available there; ask for it. California State Personnel Board, 515 Van Ness Avenue, San Francisco.

Warne: All the legislature did was to say you couldn't spend any of the money that they were appropriating to transfer anybody out of town, or something like that. In other words, their language didn't prevent me from setting a district office up here in Sacramento, so I did set that one up. Then I set one up for Red Bluff, here in Sacramento, without moving anybody up to Red Bluff--until considerably later.

Then it developed that the building that we had already rented for our district office in Fresno was owned by one of the principal sponsors of Senator Hugh Burns, and he commenced to petition me to move my men down to Fresno because otherwise we'd have to cancel that lease. I said, "Nix. No. We must abide by the direction of the legislature."

So the next year he himself sponsored--

Chall: Burns?

Warne: Yes--the office in Fresno. The one in San Jose, I couldn't find anyone to sponsor. But my good friend [Luther] Gibson said, "Well, you know, you should have put that one in Vallejo to begin with." Which is his home town. So I said, "Well, Vallejo is good enough." So we moved it to Vallejo and he got it approved. [laughs] So, little by little, we got it done. But that is one of the problems that I ran into in trying to reorganize the department.

Since then, the Reagan administration moved the Vallejo office back here and combined it with the Sacramento office. These other offices are well established and functioning as we had intended.

The Staff

Chall: What about the choice of your deputies? The people who worked directly with you. B. Abbott Goldberg--this is out of the 1963 Blue Book, which I guess is probably close to the beginning, although you came on in '61. I don't have a 1961 Blue Book. [reading] B. Abbott Goldberg is the chief deputy director; Reginald Price is the deputy director of policy; Neely Gardner, the director of administration; Alfred Golze, the chief engineer; and John Teerink, assistant chief engineer. Then there were the counsels, Frederick Rupp and Porter Towner.

Was that your primary administrative staff? People who reported directly to you?

Warne: Harvey Banks had appointed Fred Rupp as special representative, which was a title which I think he used throughout his tenure there, on July 15, 1959. Harvey had Bill Fairbank--that's William Fairbank--as assistant director and he served until January 3, 1961. That's just about the first day that I was on the job.

Chall: Did he resign?

Warne: He was on the job. I offered to keep him as chief of planning. He, I think, already had made an arrangement to go with Metropolitan Water District as their chief lobbyist here in Sacramento. So, he resigned, yes, at that time.

Now, Jim Wright was appointed by Governor Knight on October 1, 1958. He served as deputy director during the first year that I was director; that's till April 30, 1962. He resigned to take the job as commissioner of the Delaware River Commission back in Trenton, New Jersey.

Ralph Brody was special consultant to the governor and also deputy director of water resources for a period that ended December 7, 1960. He wasn't in that position when I became the director. By that time, the governor had decided to appoint Brody to the water commission [California Water Commission].

I got there early in January 1961, and B. Abbott Goldberg was appointed to succeed Brody and was designated chief deputy director in the department on January 9, 1961. That's just a few days after I got there. The governor called me and said that he wanted Abbott to be there and wanted him to take Brody's place as special counsel to him on water resources matters.

I told the governor that I wouldn't have any objections, provided he let me make the announcement, which, of course, meant that it had to come after I was the director. Abbott had worked with the governor when he was in the attorney general's office. He worked on water matters and problems.

Abbott didn't want to have an office in the governor's office, as Brody had had. He wanted to be realistically a member of the Department of Water Resources staff, and that's the way we worked it out. He stayed in that position until he was appointed to a municipal court bench about the last year of Governor Brown's administration, maybe the last two years. Brown advanced Abbott to the superior court bench before he left the governorship.

Reginald Price was appointed deputy director by me in that one position we had in which the director could name his own man. That was the position that Fairbank had in the Harvey Banks administration of the department.

Chall: When you say that his was the one position that the director could name, actually you could have named the chief deputy director if Governor Brown hadn't put somebody in there.

Warne: The director could name only one position.

Chall: Really?

Warne: Yes. It doesn't make any difference which one it is.

Chall: Where were the others supposed to come from?

Warne: They came from the governor.

Chall: Is that so? That's the way it is, that the governor could have named all of these people, including the chief engineer?

Warne: No, not the chief engineer.

Chall: But the deputies. I see.

Warne: However, the director has the right, under the civil service law in our administrative law, of naming one, and I named Reg Price. Now, Reg had been--I'd known him so long that memory runs not to the contrary, almost. I first met him way back in 1936 when I was on loan from reclamation to the National Resources Planning Board. He was a member of the staff of the NRPB.

Then when the National Resources Planning Board was done in by the Congress, Price joined, somewhat at my suggestion, the staff of the Bureau of Reclamation. When I became assistant secretary of the interior for water and power in July of 1947, I took Reg down there as my principal assistant. Reclamation was on the seventh floor; the assistant secretary was on the sixth. I then had the right to one appointment, too. I appointed Reg as my assistant and we set up an office called the Office of Water and Power.

That office is still there, though it's gone through several name changes since. It's the staff office to the assistant secretary. When I left the department, Reg stayed on and then went with the UN or somebody before the year was out in 1953. He was in Thailand when I ran into him the next time, with the UN on the Mekong River project. I hired him in Korea as my program officer.

After I came back here, Price transferred to Washington. He was in one of the principal jobs in the AID in Washington. I asked him to come out to Sacramento in 1961 and join me in water resources. And he did. As my personal appointee in this particular position, he was the only one who was authorized to sit and vote in my place on all the various commissions that I sat on.

Chall: He was really your personal deputy?

Warne: He was my personal deputy, yes. Reg was a very fine man and his death recently has been regretted by all his old friends here, and in Washington, and abroad too.

Neely Gardner was appointed deputy director for administration on May 1, 1962 after Jim Wright left on April the thirtieth. He, in effect, took the position that Wright had had. Neely had worked with him in the agency planning assignment. They were an effective team on that job. I had worked with them, but they did much more of the staff work than I did.

Wes Steiner was appointed deputy director for program and planning on April 5, 1966 and he served until November thirtieth of that year. He replaced Abbott Goldberg, though with a different title, when Abbott was appointed to the municipal court on April 4, 1966.

[Porter A.] Towner was well known to me from the days when I was with the Bureau of Reclamation. We were both in the bureau at the time. But Pat Towner had been in the department for a number of years. I kept him in the position of chief counsel.

Abbott Goldberg, being very much of an expert in the water law business himself, did a lot of our high-level legal work as a sort of counsel to Porter Towner and representative of the governor. Towner never really felt that he reported to Abbott, however. I mean, he had his distinct position in the department. I don't think Abbott ever took on any of the duties of the chief counsel except those that related, for example, to the petitions before the Supreme Court and the various litigations, and then he and Towner worked together.

But Abbott had many things to do and he did them very well. We're getting ready to dedicate a bridge to him near Oroville.

Chall: Are you?

Warne: [chuckles] Yes. I was talking to him about it this morning.

Chall: His primary responsibility, then, was not administration. You used Abbott Goldberg then for legal work?

Warne: For administration and special work. In addition to these, people who served there included Fred Rupp. He stayed on throughout my period and he was, in effect, our liaison with the legislature. Our engineering group has been described.

Then we set up a Land Division to acquire rights of way. This was headed by Tom Morrow. I set up an internal audit group under [Richard] Wilson, which was new; our program planning office was new. All of these district offices, except the Southern California district, were new.

Warne: After the Baldwin Hills Dam failure--when was that, 1964?--we completely overhauled the Safety of Dams Division, in a way that, in effect, made it a new division.

Chall: A new division called the Safety of Dams?

Warne: Yes.

Keeping Track of the Building Program

Warne: We set up an orderly reporting system of which I was very proud, really. It has been copied very widely. One of my old associates, Walter Halset, has been implanting it in various governments abroad for the USAID and for--

Chall: Reporting--is that fiscal reporting or program reporting?

Warne: Program reporting, yes.

Here's the November 1966 progress report--November was the last one completed during my term in office. This is the one we were reviewing in my last staff meeting in December before I left. [shows copy]*

Chall: How often did these come out?

Warne: Every month.

Chall: Every month!?

Warne: Every month.

Chall: Did you use the PERT [Program Evaluation and Review Technique] program?

Warne: We used a thing called PROMPT [Program Management Technique], which was a modification of PERT, and they're still using it. Here are some recent progress reports. They're putting them out only every two months now. Here's December '78 to January '79. You see they're much thinner now. There is less action in the department these days.

*"Progress Report," November, 1966, Department of Water Resources.

Chall: Maybe they don't have as much to report.

Warne: They don't have as much to report. [chuckles] Here are September to October '78 and August to September '78.

Chall: That's fascinating.

Warne: June to July '78. I thought I had a copy of the first one we ever put out, but I don't seem to find it in my library. We called it the Command Report at that time. You see, Jim Wright had been an officer in the U.S. Marines.

My own view is that the system of interlocking staff meetings that I set up, plus this program reporting procedure--these two things together were the greatest contributions, outside of the organization of the department, that I made while director. We were able, through these procedures, through these operations, to keep the project on time and within the plan. In the year 1965, I think we spent in construction work, more than \$1 million a day throughout the year.

Chall: That's a lot of money. Working with finances like that is really mind-boggling, and I wonder how you kept track of money. So many bureaus don't seem to know at any time what they have. I'm never sure whether they actually can't keep track of money through their fiscal accounting procedures or whether they're hiding something--money which they find when it is necessary to do so.

Warne: They're very few of them that are as good or have a system as sensitive as this method we developed.

Chall: How could you do it? Was it because you insisted upon it, or what?

Warne: [emphatically] Oh, yes! Not only insisted on it, but I insisted on following through every darn month. You just let one month go by... And not only that, but I went through every page of every one of those reports and I was able to put my finger on every problem that this report revealed. Now, that mark meant that we were behind schedule, see? [points to document]

Chall: That little dot?

Warne: Yes. And that little triangle over there beyond...These are right on schedule as marked by the triangles.

Chall: I see. The triangle means that. This is the planned schedule.

Warne: That's where we'd planned to be and that's where we are. Now let's find one that's behind schedule enough so that it's got a black mark on it. Here! They had to explain every one of those black balls.

Chall: If you wanted this every month, at what time of the month did the department or bureau people come in and give the report to whomever had responsibility for it?

Warne: I believe there was a five-day lead time.

Chall: So you were pretty much on top of it.

Warne: Oh, yes. Look at this. Here's a note. [reading] "Oroville Powerplant: Late delivery of 114-inch spherical valves and the initial powerplant contractor's concrete placement progress are the most critical activities in this program."* They couldn't install the darn valve because they didn't get it on time.

But now, on our PROMPT, the critical path chart was so long that it went clear around the room, this big a room. You could see from the critical path chart that we had a little float time in there, and so we had to get this back on schedule before we used up the float. They had to explain each one of these and say what they were doing about it to avoid encroaching on the critical path.

If it was a problem that went across to some other fellow's responsibility, why, then we had to find out why he wasn't getting his job done expeditiously. If you couldn't move in to build a stretch of the canal because the real estate office hadn't acquired the right of way, then we had to find out why that office hadn't acquired the right of way. If the right of way hadn't been acquired because the water commission hadn't approved the declaration of taking, it was my job to go get the water commission to approve that declaration of taking right now.

Actually, we never had that problem, but I'm giving you an example. It is hypothetical. The water commission never encroached on the critical path by delaying its decisions on our requests, though members at times were distressed when we asked them to approve condemnation of a neighbor's land.

Chall: How often did you meet with the staff?

Warne: Every month. The first Monday of each month.

*"Progress Report," p. 14.

Chall: Over this report?

Warne: Over this report. I met with the principal staff every week, but the first Monday of every month was devoted to the review of the progress report.

Chall: You met with the same staff once a week, too?

Warne: I met with the principal staff. Someone asked me, "Can I be excused?" I said, "You don't have to come. Of course, the meeting is for the principal staff." No one ever was excused. [chuckles]

Chall: Just have to be there.

Warne: Yes.

Here, let me show you this. [searches room for object] Here's a little plaque that the principal staff gave me, and these are the names of the people who considered themselves--

Chall: Oh, ye gods!

Warne: --the principal staff and who attended these meetings regularly.

Chall: Every week? All those people?

Warne: Every week.

Chall: My goodness! That's a big meeting. I see there were women there too; they were secretaries?

Warne: Well, my secretary kept minutes. Isabel Nessler was manager of the mail room and assignment of materials. Martha Dressen and Jeannette Hart were administrative people. Here's Neely, of course.

Chall: [looking at plaque] Here's an interesting signature.

Warne: Do you know who that is? That's Russ Kletzing, the blind lawyer. He was Pat Towner's assistant, but in addition to that, he was supervisor of contracts.

Chall: This is a large group. It looks like about forty people or more. How did you have a meeting with forty people once a week? That's just quite an undertaking. What was the agenda?

Warne: We had a large circular table with a hollow center. The agenda was made up and circulated in advance. [brief interruption as phone rings]

Chall: We were just discussing what kind of an agenda you would have set up for meeting once a week with the principal staff people.

Warne: I would have an agenda in which people reported on matters that we had identified on a review of the program report. That might be three or four items--five minutes--and they usually brought in a written report and summarized it for the staff.

Then there was a period in which anybody could raise any issue that he thought was upcoming. We never permitted the staff to discuss administrative matters or personal matters in the staff meeting. It was not permitted ever to degenerate into a gripe session. If someone had a complaint, he made it through regular channels. Anybody on the staff could see me who felt he must and my secretary had instructions to let him in without insisting on knowing why he wanted to see me. Some people took advantage of this offer. Mostly they wanted to discuss embarrassing personal problems. I don't recall of anyone making an accusation against a fellow employee or his superior, but if anyone had reason to do so he could have with impunity.

This picture is not of my staff meeting, but the other day I was down at DWR and they gave me this picture of our negotiation with the power company people on the power purchase contract. It shows the circular table. Now, keep in mind, there were about five rows of chairs across here in which lesser staff sat.

The principal principals sat around this circle, which was called, rather irreverently, the bull ring. [laughs]

Chall: I see. So that all of your fifty weren't sitting around the table.

Warne: Not all of them were at the table.

Chall: Were they listening in back here?

Warne: Oh, yes.

Chall: Were they also speaking?

Warne: They would speak, too. Oh, yes. If they had something to report or to say. They were not just observers. No, they were all participants.

Chall: And you felt this was necessary to keep the staff in touch with the progress of the program. What other reason was there for a weekly staff meeting?

Warne: In order to get a program like this moving ahead on a tight schedule, and sensitively, it's necessary to communicate from the top down, across the divisions columns, and upward in the hierarchy. Each one

Warne: of these people went back to his staff and held a staff meeting and covered the same points that we covered, or if they had to dredge up some information to bring back up to the principal staff meeting a week later, they set in motion that dredging up process.

Some of those organizations were so big that they, in turn, had subdivision staff meetings within them. I called this a system of interlocking staff meetings.

Chall: Monday was a day of staff...

Warne: Monday was ours and then they had the rest of the week to get through their interlocking meetings. Now, our district people came in to headquarters from the various districts, and if they had a problem that ran across some internal divisional line within their district, they'd bring some of their staff up too.

Chall: How long did that meeting last on a Monday?

Warne: I tried to keep it to an hour. I figured that was best.

Well, I had a little scheme. It was the first hour in the morning--on Monday morning. Goldberg protested this until the day he left the department. But I never yielded and he still cries about it every time I see him.

Chall: It surely got him and everyone else to work on time on Monday, didn't it?

Warne: We would meet at 7:45 in the morning. The department was opening in the summertime at 7:45 a.m. At eight o'clock, otherwise. We started on time and ran the meeting for one hour, so people were present at the beginning and they stayed through to the end.

Chall: Everyone was familiar with the report?

Warne: They were all supposed to have read it. And they had to. I spent several hours on the report before the review meeting, myself. Most of the others had done the same. And not only that, but they had composed their parts of it, so they knew what they were going to have to answer to, and frequently they brought their little memos of explanation right in with them.

These meetings sometimes turned up inter-agency, even inter-governmental problems. Task forces would be established to attack them. I remember once I had to involve Governor Brown in a joint meeting with the Department of Highways and he had to referee a

Warne: squabble between us. We involved the Department of Finance in that one, too, since an exchange of funds and an amalgamation of right-of-way acquisition staffs were in question. Pat sat through it and said, "Well, what do you want me to do?" I shoved a paper across to him and said, "If you will sign this, we'll move ahead." The governor said, "You, Bill Warne, always have a paper for me to sign. How about Highways? Shall I sign it?"

They agreed with some reluctance and Brown signed the memorandum. Hale Champion said, "Here, give it to me and I'll promulgate it." And it was done.

Chall: How much outside work, then, did you have to do, besides making sure that all of this was moving? You were out speaking a great deal?

Warne: Yes.

Chall: Or dealing with the legislature? Or did you have Rupp doing this?

Warne: No, Rupp never dealt with the legislative committees. He dealt with individuals over there. He did the backstairs work. However, Gardner, Price, Goldberg, and while he was there, Jim Wright, did quite a lot of the committee work. Now, Wright did most of the budget presentation in the year that he remained with me. However, after that, I decided that owing to the surprise I got on the district offices, I was going to take that job on myself, and I did, with Gardner's assistance.

We had a system of delegation within a department so that not only did the deputies each have certain assigned responsibilities, but there was a rotating or a receding line of delegation so that if I were out of the office more than twenty-four hours, Goldberg signed as acting director. He had full charge. If he and I were both out, Price had the next assignment. Then Gardner. Whichever level you were on, you had to make sure that the ones that preceded you in the rotation were not absent before you could make any trip. Otherwise each deputy controlled his own time. Now, I didn't ask anyone to confine his activities. The only time I ever ran into difficulty with this system of delegation was one time we were holding a big meeting down in Fresno. I looked around the room at the crowd and all of my deputies were present.

I said to Gardner--he was the last one on the totem pole--"Who's in charge back home?" He looked at his watch and said, "I will be before five o'clock!" He got up and went back to Sacramento!
[laughter]

Chall: You had quite a few commissions and you were on many boards.

Warne: Yes.

Chall: How did you handle that? Did you attend them all?

Warne: We had a staffer assigned on the work of each one of them. But in addition to that, I attended all of the meetings that I could. Reg was supposed to, and he was the only one who was really entitled to attend and to vote in the others when I was absent. The District Securities Commission; the Water Pollution Control Board, which had various names at various times; the Interstate Commission on the Klamath River. The Interstate Commission on Tahoe, the Interstate Commission on the California-Arizona Boundary, the Committee of Fourteen on the Colorado River. My golly, and that wasn't all. The Western States Water Council. The Four Agency Coordinating Committee. Still more.

Chall: You didn't try to go to them all of the time?

Warne: I tried to go to one meeting of each of them at least. But then I turned Tahoe and Klamath over to Reg completely, and he had a staffer who did the work.

But the water commission, I never missed one of its monthly meetings unless I was completely out of the country. Actually, several of us went to them. I tried to get the presentations made by the people who were most knowledgeable. That might be Towner, or Goldberg, or Price, or Golzē, or Dewey, or someone else.

Chall: That was the important commission.

Warne: We used it as a sounding board.

Chall: I see.

Warne: That's where we put our information out and got reaction. The commissioners were friendly and so it was always a good forum. Usually there was press coverage of the water commission. Not of most of the others.

Chall: The Resources Agency--I noted that Hugo Fisher had a meeting of all directors of departments who were part of this agency. Weekly, I think. Did you attend those?

Warne: I attended--I can't say most--but some of them.

Chall: Did you think that they were supposed to do the same thing as your weekly meetings?

Warne: No, they never were that well organized. As a matter of fact, the Resources Agency staff meetings spent most of their time on what I would call administrative matters, which I kept out of my meetings entirely. I wouldn't have kept out a problem having to do with the strike of the operators on the canal, for example. But we never had a problem like that when I was director. We didn't keep out the negotiations with the contractors or the labor unions. But internal administrative gripes were verboten at my meetings. Not so at Hugo's. I did not feel that I could make a contribution to the discussion of most of the problems discussed there. I always had a staffer present and we received a report at our weekly principal staff meeting, usually from Rose Nonini, who was my liaison with the agency after I gave up the administrator's job.

[Interview 2: March 13, 1979]##

Chall: I wanted to say, first of all, that the material that you developed in your bulletins and your speeches and that final report is really very good from the standpoint of getting to know what the problems were. We don't often see how they were resolved, but the problems are laid out.

Even in the last report, you weren't trying to hide anything--you and your staff.*

Warne: That's right. I wanted to set the pace, as I told the staff, and leave tracks so that someone could follow the whole process and program through. I was perfectly confident that the program would have to go forward to completion after I left. So I wanted everyone to know what we had done and what some of the things were that remained to be done.

*"Progress of the Department of Water Resources, 1961-1966," Department of Water Resources, 1966. Verbatim transcript of a meeting of the Executive Staff of the Department of Water Resources, December 20, 1966, reporting on accomplishments of the department, 1961-1966.

- Chall: There seemed to be some concern in certain areas that the staff who were going to carry on through, because they were civil service people, might have to or want to effect certain changes, and it seemed as though you were concerned, because this was really your organization, and you didn't want to see anything happening too abruptly. I gather a certain reluctance on your part even to part with this organization--which you had to, of course.
- Warne: Yes, I did regret leaving. I thought it was a classic organization, really. We had, I thought, competent men, well-qualified men in every position, and I thought the organization was properly laid out to get the job done. However, I wasn't that regretful about leaving it. I've always had the philosophy that a job like that didn't belong to the individual. I think I even told the staff that, that these were jobs that men held while things were appropriate and the job-holders ought to leave them willingly in a way that someone else could carry them on.
- Chall: You had moved from one major job to another frequently, so you understood that the cords could be cut.
- Warne: Looking back on it, I was director of the Department of Water Resources for six years precisely, and I believe that's the longest I ever stayed on any job. I never left one except of my own accord.
- Chall: If Pat Brown had won reelection, do you think you would have stayed on? Were you planning to?
- Warne: I certainly would have stayed on. But I doubted at the time of the election whether I would stay on another four years, if Brown won. I wasn't sure of that. I would have stayed on, however, for a time. We would have started the Peripheral Canal--but that wasn't to be.
- Chall: Do you think you could have started it, whereas the Reagan people didn't start it?
- Warne: That's right. There isn't any question about that.

Financing the State Water Project

- Chall: Is that because of a different way of looking at financial arrangements?

1966 senate trip to Oroville Dam. From left: William Warne, State Senator Jack Schrade, and Assemblyman Carley V. Porter.



Fifth Annual Inspection of the work at Oroville Dam. Director of the Department of Water Resources, principle staff and their wives, standing near "the monster." March 27, 1966.



Governor Edmund G. (Pat) Brown and William Warne in front of the 58 county plaque at Oroville Dam, December 1966.



Warne: In my final staff meeting, there was some discussion by [John] Hunt of financing, but I thought that we had resolved every one of those issues as we met them and we had made preparations to resolve the issues that were to arise in the future with respect to financing the construction. I had confidence that the problems would be resolved.

As a matter of fact, Reagan had to find something to call the Brown administration about. He lit on the subject of underfinancing the State Water Project.

Chall: You don't think that was an...

Warne: I think that was an unreal issue as they demonstrated themselves because they continued to finance the State Water Project in exactly the same way that we had proposed, with one exception. That exception was the elimination of the requirement to offset the bonds. We might have happened onto that ourselves. I don't know. It hadn't been considered when I left. But the idea of issuing revenue bonds is one of the main issues that I had with the legislature from the very first. We'd won that issue, to the undying chagrin of George Miller.

Chall: That's the old Central Valley Project revenue bonds.

Warne: The right to use the authority of the Central Valley Project Act to issue revenue bonds, yes. Gianelli eventually used the authority, but the idea was not generated in his administration.

You were going to ask me next about this...

Chall: I have a variety of questions starting from there. We could get into that financing matter while we're on it.

As I gather from reading your material and Aqueduct Empire, there seemed to be a problem almost immediately with respect to financing as you looked over the engineering plans and recognized what really was there and the methods by which you could spend the bond money without the crunch coming up right away.* I wondered how you reacted to that when you discovered it.

*Erwin Cooper, Aqueduct Empire, (Glendale, California: The Arthur H. Clark Company, 1968).

Warne: I didn't anticipate a crunch right away. We didn't have a crunch right away.

Chall: No, not right away, but down the pike a bit.

Warne: Down the pike, yes. However, at the outset, I felt that the plan was whole. In other words, that if carried out as originally set up, the project would come out all right. We anticipated issuing revenue bonds against the power facilities, particularly, of the project, and our calculations showed that we were going to come out all right with the addition of these funds.

However, very quickly, within a short time, it was indicated that the cost of construction was going up. The more the cost of construction went up, the more difficult it was to bring all of these things out even at the end.

I remember our staff, I think it was Hunt, suggested that we ought to go for additional financing very early because the projected cost of construction in the seventh, eighth, ninth, tenth year was going to be unmanageably high. I did not agree with that proposal. I thought that no one knew how much the cost of construction was going up, and the surest way to find out what the cost of building the Oroville Dam or the California Aqueduct was going to be was to build them.

So, instead of suspending and seeing how we were going to get more money, I said, "Go ahead and build the dam and build it fast. Nail the costs down. Get your contracts out on the aqueduct and you'll know what it's going to cost to build that facility. When we get closer to the time when we have a problem, if we ever do, we'll take care of it. And there are means of taking care of the problem."

Depositing the funds from tidelands oil in the water fund was one means. The revenue bonds were another. Participation by the local agencies in the financing of any feature that required the construction of facilities in excess of those we had planned was another. For example, when the Metropolitan Water District wanted increased capacity in the aqueduct below San Luis and in the west branch, they put up the monies for the additional costs.

By the time I left, it was pretty clear that we were right.

Chall: What happened with the tidelands money? Hadn't you anticipated something like \$30 million a year, and it finally got down to \$11 million? That's quite a difference, isn't it?

Warne: Yes, that's quite a difference, and the reduction was somewhat of a disappointment to me. It came about in this manner. The management of the state finances imposed a heavy burden on Governor Brown and on Hale Champion, who was the director of finance. The tidelands oil monies were one of the incoming funds that might be made available without increasing taxes. Allocation of these monies was under the control of the legislature. These funds weren't tied up by constitutional amendment as the highway fund was, for example.

As I recall it now, there was a need for more money for education. Hale proposed to the governor that we get part of this money by reducing the amount that was going to the water fund from the tidelands oil revenues. I didn't like this suggestion and protested--I've forgotten the manner--I think I wrote a memorandum objecting. I know I met with Hale several times. Finally, our differences got to the point where it became necessary for the governor to settle the issue.

I remember he called Hale and me in. Champion stated his reasons to the governor, quite eloquently. I could not debate the fact that they needed the money for school purposes. Then I stated the reason why I thought we ought to keep the monies in the water fund, namely that looking ahead, we could see a time when there might be a crunch, and that we had previously all agreed that revenues from non-renewable resources should be used in developing other resources of the state.

Hale objected to my proposal. He pointed out that if we spent the water funds, we were simply offsetting more of the bond monies and, in effect, reducing the amount of bond money that otherwise might be available for construction of project facilities then planned. He thought it would be better to spend the bond money first. Second, that we had more money than we needed in the immediate years ahead and it was not fair to other programs in the state to tie up these tidelands revenues in the water fund in that way.

Then I said, "Well, we've got more money than we need right now, maybe, but not over the longer run." He said, "If we can decrease the tidelands revenues going into the water fund now, we can increase the amount of tidelands money going into the water fund later, and I agree that's what we ought to do when the need arises." I made a strong pitch that we oughtn't to use the funds that came from the exploitation of a resource except to develop another resource.

I've forgotten exactly what the clincher was. I believe it was a statement of Hale's that the education construction program is also a resource development program. He said, "This, which also is a resource development program, can't go forward without these monies." I said I was in a poor position to argue that point, though I had never considered education as a resource development exactly on a par with the water project.

- Warne: But the governor said, "Okay, we'll go along with what Hale proposes and, Bill, you have your means of coming back for money when you need it."
- Chall: But you never could.
- Warne: No. When I left, we had not reached the point at which going back was required. Now, this was the only time in the whole six years that I was director--ever--that a ruling went against me when I went to the governor's office.
- Chall: I recall something that Governor Brown said, I believe during the battle over Proposition 1, that you were going to be taking from one resource, tidelands oil, and putting it back into another resource, namely the water program. But hadn't Governor Brown made a commitment during his 1962 election campaign that he would not raise taxes?
- Warne: Yes.
- Chall: And wasn't this a whole part of that problem of shifting monies from one fund to another in order to keep that promise?
- Warne: That's right. He had decided on--I've forgotten whether it was a flat-out promise. He'd certainly indicated he didn't want to raise taxes. Hale was threatening him with the necessity to raise taxes if this weren't done or with giving up one of his prized education programs.

I think the director of finance and the governor have a right to manage the finances of the state. They never dipped into, or attempted to, in any way, the monies that were in the Water Resources Department for its programs. I'm not at all sure that the water fund would have had the amounts from tidelands that were originally pledged to it if we had other means of financing some of the projects at that time. In other words, if a bond issue had been passed earlier, I'm not sure that the water fund would ever have been given that big a cut of tidelands monies in the first place.

Now the tidelands allotment has been raised back up again, but it does not offset bonds.

- Chall: That's really the reason, isn't it, why with the Porter-Cologne bill, in the first year of the Reagan administration, they came up with some rescue money? It was mainly because of the crunch over the water bond money. In fact, they changed the rule about the offset.

Warne: Yes, they did. They had S 261 in 1968, which did three things. It raised the amount of the allotment from the tidelands monies to go into the water fund from \$11 million, which it was at that time, to \$25 million starting in the fiscal year of 1970-1971.

Then the act provided that the \$11 million that had already gone into the water fund would be, for that particular fiscal year, transferred to the Central Valley Project Construction Fund, which meant that it would not be offset against the remaining bonds.

Then it provided further that the remainder of the allotments from the tidelands oil to be made into the department, through the fiscal year 1971-1972, would go into the Central Valley Project Construction Fund.

Chall: Central Valley Construction Fund?

Warne: That is the fund which we used actually to build the project. Do you see? We transferred all the monies into the Central Valley Project Construction Fund for construction purposes. Now, the water fund had some more flexibility than the construction fund. The water fund could be used to pay interest and redeem bonds.

Chall: Oh, it could?

Warne: Yes. But the Central Valley Project Construction Fund could not.

Chall: Those were revenue bonds, weren't they?

Warne: No. The construction fund was established simply to construct the facilities. It was established in the old law, and it had connected with it all the authorities to issue contracts and administer them. One of the reasons why we were so adamant that the Central Valley Project Act should not be eliminated from use by us in the construction of this program, as some of the legislature wanted to do, was because the Central Valley Project Act, way back in 1932, when it originally was passed, was very thorough in its consideration of the provisions for the administration of construction programs. We used the construction fund, the Central Valley Project Construction Fund, all the way through.

Now, the principal advantage of putting these monies for a limited period into the construction fund rather than in the water fund was that the construction fund did not have to be offset against bonds. The reason this act was written, apparently, so that it applied only through the 1972 fiscal year, was that by that time all the bond revenues would have been spent, so there was no possibility of offsetting them anymore.

Chall: I see.

Warne: As a matter of fact, by the end of that fiscal year, all the bonds except for the bonds that were allocated to the Davis-Grunsky Act, which originally was \$130 million, had been sold. All of the bonds have now been sold except about \$20 million of the Davis-Grunsky allotment of bonds that still remain.

Now, by that little tricky bill, S 261, the Reagan administration managed to spend \$80 million, approximately, of tidelands oil revenues without offsetting them against the bonds, so they, in effect, increased the available bonds for the construction of the initial facilities of the project by \$80 million.

Let's see [musingly], \$167 million, I believe--yes, \$167 million had already been offset.

Chall: That offset was to be used for building--

Warne: --additional facilities. That sum had been offset and, of course, those bonds are still unsold and they can be sold and used only for the construction of additional facilities. That \$167 million is almost precisely the amount that had been used out of the water fund by the time I left the department, so that virtually no monies were offset after I left.

Chall: The main problem was just finishing the California Water Project as it had been designed at the time, without the augmentation. That was their main concern, just the completion of what was on the books?

Some Revisions in the Plan

Warne: I can't say what their main concern was. I can say that I had every expectation of building the Peripheral Canal and, at the appropriate time, of proceeding with Dos Rios Dam and diversion works on the Eel River, and of building the master Drain.

Actually, of these three--the Dos Rios, I thought, would have been the first of the additional facilities. The new administration fairly quickly took three actions which modified the forward planning that we had done and the program on which we were proceeding. One was they set aside the Drain completely, cut all work on it.

Warne: The second was they postponed the completion of the designs for the construction of the Peripheral Canal on the grounds that they didn't think it was urgently needed immediately. And the third was that they actually reversed the finding that I had made on the need for the Dos Rios Dam on the Eel River and eliminated my authorization of it as an additional facility of the project, leaving the whole question of where you're going to get the additional waters that are going to be needed in limbo, and that question still is in limbo, and it grows more troublesome every day.

Now, they didn't reverse the finding of authorization that I made on the Peripheral Canal, however, and the Peripheral Canal still stands as an authorized initial facility of the State Water Project. As you know, every effort is being made by a host of people, many of them in part conflicting in their efforts, to get the canal moving again. It is late.

The Drain

Warne: The Drain is still in limbo.

Chall: Yes. Could the Drain have gone forward during the time you were there if you could have gotten those San Joaquin farm groups together on the payment?

Warne: Yes, yes. As a matter of fact, I was desperately anxious to get the master Drain going because the Bureau of Reclamation had the obligation to build the interceptor Drain for the Westlands unit of the Central Valley Project. Obviously, the logical solution to the whole drainage problem in the San Joaquin was to join the master Drain, which would pick up down south in Kern County, into the interceptor Drain of the Bureau of Reclamation and dispose of the effluent together. This would have been highly desirable. It still would be highly desirable.

However, we had a lot of trouble with the Drain. I thought that the Drain ought to be underwritten by all of those who contributed to the problem of drainage in the San Joaquin Valley, and Senator Jim Cobey, who was from that area and who was chairman of the Senate Water Committee, agreed with me.

He once carried a bill to put the whole of the San Joaquin Valley into a drainage district and with that district we were going to contract for the repayment of the master Drain. It would

Warne: have placed an infinitesimal charge against the individual land owner if we had been able to carry through on it. But there was tremendous objection coming not only from some of the farm land owners in the periphery--that is, around the edges--who thought, "My golly, it's only those fellows down in the valley who are going to need the Drain"--but it also came from the cities which thought, "Why should we cooperate with the countryside?"

Jim told me that he never would carry that bill again.
[laughter]

Chall: You've gotten right back to the same point, and that's the point the whole water project had been involved in for so many years before SB 1106, I guess. It's this infighting.

Warne: So we did not get the Drain. However, that didn't discourage me--well, it discouraged me, but I didn't give up on it. We continued to work at that as long as I was there, worked on the preparations for the construction of the Drain. It was only after we left, that the department, under a new director, said, "We'll just quit working on that Drain," and the Bureau of Reclamation built its interceptor Drain alone.

Chall: There's no use asking why they did that. We'll just wait until we interview them.

Warne: Someday you can find that out.

Chall: I'll talk to Mr. Gianelli when we do the next step.

This is just one of those very hypothetical ifs, but if you had been able to get those people together, you might have built the Drain before, do you think, the environmentalists became more concerned about the drainage into the Delta than they are now? Or were the Delta groups as strong as they are now--George Miller and the rest?

Warne: I'm pretty sure we could have handled it if we could have built the Drain at that time. You know, this is an "iffy" question, and my answer, I can't be certain about that.

Chall: I see. You were willing to start with the land owners in the San Joaquin Valley and then tackle the Delta.

Warne: At that time, we didn't have the problem in the Delta to the same degree. We had already indicated where we were going to put the outlet, and the intense opposition to an outlet near Antioch developed later. Not then.

Chall: In terms of where we are in our thinking today--it's maybe somewhat changed because of environmental factors or understanding more about them, perhaps--would you still be in favor of a drain that sends the water up into the Delta under the Antioch Bridge? Is that still a feasible sort of solution to the problem of drainage?

Warne: Well, where do you think those wastewaters are going now?

Chall: I don't know where the San Luis drainage is going--into sumps nearby, I think.

Warne: The San Luis drainage is going through a series of ponds in the lower San Joaquin Valley.

Chall: It's going under the ground somewhere, I suppose.

Warne: It's all going underground or it's going out through the Delta and the Bay. What goes out, and eventually all of it will go out, is going out right through the present water systems in the Delta. We are simply letting these degraded wastewaters poison the land on their slow way to the sea.

I think we ought to give consideration now to a second level of consideration on the Drain, and I believe we ought to clean those waters up so that they can be reused in the valley. What we then would have to dispose of might be a very small portion of the total, and perhaps it would be feasible to dispose of that remainder through a series of evaporation ponds in perpetuity without damaging much land very much. Perhaps eventually we could clean out these ponds and recover minerals that might be useful somewhere. I don't know.

But in any event, I think our situation is such now that it would, from a resource point of view, pay us to reclaim and recycle those wastewaters. I think it's an extravagance simply to dump them. And it sinful to permit them slowly to destroy our best farms.

Chall: Is anybody giving any serious thought to this? I see it raised occasionally.

Warne: The department--yes, they've got a little desalter up at Firebaugh that they've been working with for years and it has demonstrated the feasibility of agricultural wastewater recovery. However, the matter of costs is still presenting a problem. But there's no doubt they could use those waters for industrial purposes or for cooling a power plant. The costs would be manageable for those uses. Certainly they could use the reclaimed water in agriculture for more irrigation, though costs might be high.

Chall: So the simple solution, which is also an expensive one, building a drain and an aqueduct to bring the water into the Delta--is not necessarily the only or the best.

Warne: No. You could intercept the waters and at least reduce their quantity if quantity is what is worrying you. A proposal was made that those waters be put into the ocean directly through a pipe south of San Francisco Bay, which would get them out of the Delta. Well, if you reduce the amount through the reclamation of the wastewater, of that which must be dumped, it would not be such a great problem to pipe the dregs to the ocean. We're doing that same kind of thing along the Santa Ana River in Southern California now. A discharge line that handles waters that simply can't be used again, separating those waters from the river itself, runs to the sea and the main flow of the river is used and recycled.

Electric Power

Chall: While we're on some of the sticky problems that still remained in 1966, what about the matter of power? As I read your material and also some of it from the Metropolitan Water District, there was a great belief then in nuclear power. There were some pilot plants being talked about--I don't know if they actually started them at that time--in cooperation with the federal government, the AEC then. I guess the major project was to get the water over the Tehachapis. Now has any of that come to pass? Is there any nuclear power in the water project?

Warne: Our power program had several different elements to it. In the first place, we had considerable power-generating capacity at Oroville and Thermalito on the Feather River. Then we were going to recover power at San Bernardino Devil's Canyon Drop and at other places in Southern California. We worked out various and sundry plans and programs including an arrangement with the city of Los Angeles. A pump-back power drop system was put in between Pyramid and Castaic reservoirs down there.

But it was clear that before we went very far with the development of our uses of the waters, more energy would be required than we could develop. Also, our power plants were not in a system which would provide the necessary backup. I thought it would be best to work it out in the way in which we began to work it out, namely, with a power service contract with California utilities. First, we entered the arena and obtained a power allotment from the Pacific Northwest-Pacific Southwest Intertie.

Warne: We took capacity in the Intertie and got an allotment of what was called the Canadian Entitlement Power on the Columbia River. This necessitated several appearances in Washington before the congressional committees and many meetings with [Charles] Luce, who was then the Bonneville Power administrator. All of the power companies in California didn't want the state mixed up in the northwest negotiation.

Chall: The PG&E and Edison?

Warne: Yes. Edison particularly. The PG&E too. And San Diego Gas and Electric. Nevertheless, we carried that particular petition and won it with the help of men like Senator "Scoop" Jackson and Secretary Stewart Udall.

Chall: Did it help in all your necessary contacts with Washington that you had been in the administration--prior administration--so that you knew some of these congressmen and Senators and Department of Interior people?

Warne: Yes, in those days I knew nearly all of the people involved in Washington.

Chall: And was this an important help?

Warne: I think it was an assistance. I knew "Scoop" Jackson from the day he first came to the Congress. Stewart Udall I knew, but not so well, since he came in much later into the Congress, before he went into the Interior Department. But Stu and I were good friends.

I never asked for anything particularly of them, but they always heard me with what I thought was respect and sympathy when I described California situations. Not only they, but that would go for Senator Clair Engle and Congressman George Miller, for "Bizz" [Harold] Johnson. My good friend, Congressman [Richard J.] Welch. Senator Thomas Kuchel. Though I didn't have a long association with Kuchel before, I had a pleasant association with him when I was the director of the department.

Chall: It would have been necessary.

Warne: Bernie Sisk. John McFall. Many, many.

Chall: Were there many you would go to initially? Or did it depend on the problem? "Bizz" Johnson was an important person in water matters.

Warne: I always talked everything over with "Bizz", and with Sisk. And some congressmen who were not from California, too, were long-time friends of mine from the days when I was in the Interior Department.

Warne: They were like Mike Kerwin from Ohio, who was chairman of the Interior Department Appropriations Subcommittee, and some Senators such as Mike Mansfield, of Montana, with whom I worked much earlier. Carl Hayden of Arizona was a staunch friend of mine.

Chall: Yes. We'll probably talk about him later when we get to the Pacific Southwest Water Plan. What about Mr. Aspinall?

Warne: Aspinall was a--I always got along all right with Wayne. I hadn't known him from earlier times. Well, I'd known him before I became the director of the Department of Water Resources, but not at the time I was in the Interior Department.

Chall: Now, you had some background in power, hadn't you, so that when it came to moving in the direction you needed to go, you knew where the ties might be.

Warne: I had been the assistant director of the Office of Power for the Interior Department, under Ickes--that was the office that Abe Fortas originally set up--and when he became under-secretary, [Arthur] "Tex" Goldschmidt, who was Abe's assistant, moved up to the chief of the office and I moved in as assistant to him. These were the days at the start of the Second World War. I remember negotiating Project X--an agreement to supply power from Grand Coulee Dam.

Chall: X or hex?

Warne: X, which turned out to be the Hanford Nuclear Energy Plant, but we were not told and did not ask what Project X was until the war was over.

Chall: Oh, is that right?

So this establishes the fact that you probably knew your way around when it came to dealing with the problem of power here.

Warne: Yes, and I negotiated some power contracts in the Bureau of Reclamation and had worked closely with my chief electrical engineer, L.N. McClellan.

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Chall: We were talking about power. You developed your intertie with Bonneville at the time.

Warne: Yes. We also had to have a wheeling agreement with the utilities since the intertie was actually to be owned by them. And we needed a power service contract, so we negotiated a power service contract

Warne: with the public utilities, that is, the Pacific Gas and Electric Company, the Southern California Edison, San Diego Gas and Electric, and the City of Los Angeles Department of Water and Power.

These four utilities entered a single contract to deliver power to the department at the various take-off points where we were going to have our big pumping plants. In that particular contract, our law said that we couldn't have a contract extended more than x number of years--I think fifteen years or something like that. It came out to 1983.

I asked for a provision in that contract that the department could build its own power plant. On five years' notice, we could put power into the system as well as take power out. This was a highly controversial issue. We called it "the window." We kept a window open in the contract through which the department could see into the future.

Chall: What had you in mind?

Warne: I had in mind building a nuclear energy plant or a very large thermal power plant. At that particular time, we thought we might build a seed and blanket breeder reactor. We selected the site down near the Tehachapi pumps, which is in southern Kern County. Good friend, Admiral [Hyman] Rickover, who was the chief of the navy's Nuclear Power Division, and also was the director, simultaneously, of the Atomic Energy's research program, was advocating the construction by the federal government, in conjunction with some responsible public power user, of a demonstration plant of a fast breeder reactor.

He thought that the technology was ready. He had been conducting a number of experiments at Arco in Idaho, and he came down and met with me on several occasions and also with Governor Brown. I went to Washington and met with the Atomic Energy Commission and with Admiral Rickover at various intervals, and we entered a little agreement to proceed with this. That was the reason I kept the window in the contract and the reason we went ahead and selected sites and so forth. It was Christmas Eve--it must have been 1965--that I had a call from Admiral Rickover. He said he had to see me immediately. Could I meet him at an airport hotel in Los Angeles?

I went down there--

Chall: Christmas Eve, right then and there, is that it?

Warne: Yes. I went down there and he said that he hated to tell me this, but that he had not approved the technology and he would have to cancel out on the breeder reactor.

Now, I had been to Arco. Golze, the chief engineer, and I went up there and visited the place and observed the experiments with Rickover, which at that time seemed to be going fairly well. But the problem was that the cladding, the zircon cladding, I believe, the cladding on the fuel rods, was not long-lived enough. The cladding tended to break, and in that manner pass radiation pollution into the coolant waters. And he simply said that they weren't ready, couldn't do it, now.

As a result of this, I had to sacrifice all of the momentum that we had gained on that project, which was quite a lot. I mean, I had appeared before the Joint Atomic Energy Committee of the Congress. We had gained authorities in the federal law. It seems to me we'd even gotten a pledge of federal funds. Since it was going to be a joint project, we were willing to put up part of the money.

It was quite a setback, really. And, of course, before I could work out an alternative, which was bound to be a conventional plant, I left the department, so that window in our contract has never been used. However, the present administration has revived the plan for the department to provide its own power. They are proceeding, not with the breeder reactor or even a nuclear plant, but they're talking about a coal plant. They have actually undertaken some contracts for geothermal developments in the Geysers up in Sonoma County and at Honey Lake, and also in the Imperial, so we're moving, though it's kind of late--1983 is pretty close at hand and the power supply contract will be terminated in that year.

Chall: Nuclear seems not to be the promise. It was your material and the Metropolitan Water District material that hailed this as the great feature in power development.

Warne: Yes. Met, you recall, set up the Bolsa Chica Island plan to set up a joint water manufacturing and nuclear energy project. Southern California Edison was in it with Met. And that fell through, too. They were going to build an island in the shallow offshore waters, which, of course, was never done.

The project fell through for several different reasons. One of them was a general diminishment of the enthusiasm for atomic energy as a cheap source of energy.

Chall: Cheap and safe.

Warne: And safe.

Desalination

Chall: What about the whole matter of desalination? That seemed to go hand in hand with this new power source that was supposed to be cheap. Has desalination moved in any major direction?

Warne: I keep making speeches these days about desalination. I think the time will come soon when all of our water systems will consider the use of desalters as integral parts of their supply facilities. I think the State Water Project is included in that prognostication. In other words, I think we'll have desalters on the Drain and will provide fresh water for the project supply. I don't see any reason why the state shouldn't develop desalination in Southern California, too.

The present indications are that it will be as cheap in energy, which is a cost that needs to be measured more carefully now, to desalt at least brackish waters in Southern California as it will be to take new water supplies south through a series of pumping plants such as those that will be necessary for any additional diversions from distant sources.

Now, what the cost of energy is going to be for the Tehachapi pumps after 1983, I don't know. But it scares me to think about it. It really does.

Chall: It would raise the cost of water considerably, I guess.

Warne: We probably can afford it, but I think it would be a shame, really, to overlook the use of the new water sciences and the parts that they can play in meeting our water requirements.

We started some desalination way back when I was director. We weren't soft pedaling that; we were trying to get into the new fields. I think there's been some relaxation on the part of some of our water planners since then, but I believe the idea is being revived now.

Chall: Actually, while you were the director, not only were you building aqueducts and dams and all the rest, but there seemed to be a great deal of scientific concern about desalting, perhaps nuclear power, all manner of concerns at that time for the future.

Warne: That's right. Well, this was part of my philosophy and, I might add, I was supported in this very strongly by the governor. I mean, he never was one to be afraid of the future or of innovations.

The Need to Complete the State Water Project

Chall: This whole matter of financing and constructing almost simultaneously, really, was both exciting and, I would guess, occasionally a real problem. Figuring out what might be reimbursable and what might be non-reimbursable, what the federal government might give you, what the federal government might not give you, this must have caused quite a problem for the accountants in terms of knowing, at any one time, how much the whole water program really was going to cost. The figures vary every year or so, depending on who's sending them out.

Warne: I don't think they ever went down.

Chall: Oh [pauses] no. It depends on whether you were considering interest, or leaving out interest, or...

Warne: Interest during construction. You know, we had all of these organizations like Metropolitan Water District of Southern California looking over our shoulder at every decision that we made that had anything to do with the allocation of costs or with repayment. Their interest--they were pretty careful to keep us from overloading the repayment ends of the contracts. We were just as absolutely adamant that we had to have ways and means of getting the repayments back to meet the bond requirements.

I deliberately set up the Water Service Contractors' Council in the hope of getting everybody to move along together. I had a plan that we never let the members of the council take a vote on any issue. They could holler, and if they made points that were serious enough, we could consider them, or reconsider our own decisions, or try to work the problem out more carefully.

But very shortly, they wanted to set up an audit committee.

Chall: The council itself?

Warne: Oh, yes. And today they have one. They raise all sorts of questions. I don't think it's too bad, but I don't think I would have permitted it to go exactly the route that it has gone.

The question of accountability is one of major concern. I think the project is soundly conceived, was soundly financed, and I think the repayment programs are sound. However, some of the things that have happened since raise issues that may be of great concern in the future. For example, the failure to proceed with the Peripheral Canal, the failure to develop additional water supply features north

Warne: of the Delta, some of the decisions that have had to be made as a result of lack of waters during the drought about the delivery of surplus waters, excess waters, have caused real problems and concerns about whether the water service contractors are going to be able, forever, to meet all of the costs, all of their payments to the state.

Chall: Why is that? Because they won't be getting the water to sell?

Warne: We had a plan. Have you ever seen the water build-up plan? We had a plan that the contractors would get so and so much water each year, and their payments were based on the amounts to be taken en toto. These build-ups represented the amounts the water service contractors expected their future growths to require them to take. The present capability of the initial facilities of the State Water Project amounts to only about half of the ultimate demand. The present capability still exceeds the combined requirements of the water service contractors' build-ups to the present date, but soon the expected build-ups will require more water than the project can produce without additional works. That is when expected repayments may be contested and fall short of the bond funding plan.

Chall: I see. A fifty-year plan of some kind.

Warne: Yes. And when you get up to this point where demand equals supply, you may find that you haven't developed the waters that you're going to need in the future to meet growth requirements.

Chall: But you've been charging them all along on a sort of prorated basis. I see.

Warne: But they may not get the water that they have counted on--contracted for--if it isn't there. Then there could be defaults. I don't think it will happen. I hope it won't happen, but I do think that the state has an obligation that it ought to consider almost sacred, to meet the water delivery schedules that the water service contractors have set up. And the state has delayed and procrastinated and temporized throughout the Reagan years and has not been able to revive the program fully under Jerry Brown [Governor Edmund G. Brown, Jr.].

Chall: Weren't some of those schedules already in the original--not the schedules themselves, but the route by which you arrive at them--in the original Burns-Porter Act? Wasn't that pretty specific as to the fact that the augmented waters were to come from the Eel River and the other rivers in the north coast?

- Warne: It didn't actually say where the supplemental waters were to come from.
- Chall: Some of those rivers or plans for them have been changed by the Wild Rivers Act. That has made a difference.
- Warne: Yes, yes. [softly] I think the Wild Rivers Act is a great mistake.
- Chall: That won't allow some of the plans that were considered at that time to be fulfilled as far as the additional waters are concerned for the project.
- Warne: We didn't have the plans down to such specifics, except on the Eel itself, and the Wild Rivers Act does not actually preclude the construction of the project on the Eel, although Governor Reagan disavowed intent to build the Dos Rios project on the Eel, which may preclude it unless it's reinstated in the future in some manner.

But one way or another, I think the state is obligated to deliver the waters under the planning program that was adopted, all of it adopted specifically under the authorities of the Burns-Porter Act. The whole financing/repayment program was worked out on the basis of carrying through a 4,230,000 acre-foot project. We signed those iron-clad contracts with the water users, and carefully went through all of the processes allocating the waters and making sure that needs--at least as they were forecast by the user groups--were met, and setting up in each contract a program for a fifty-year period which has been followed fairly well, up to now. We sold the bonds and they must be redeemed. But the second half of the water supply is not being developed and we are almost twenty years nearer the end of the century than we were in 1960 when the Burns-Porter Act was approved by the electorate.

- Chall: Has the population increased to the extent that it was thought it would increase, and is the water needed as much as they assumed it might be? We might have a little slack in there.
- Warne: By the time that I left the department, January 1, 1967, the population was increasing at a more rapid rate than we had planned, so that, at that time, it was said that instead of 1990, the project would provide waters only for increases expected by 1985. However, the population growth dropped off quite rapidly in--I've forgotten--'68, '69, maybe even in '67, and in 1970. So a part of the justification of the Reagan administration for knocking out the north coastal project, delaying the Peripheral Canal, was that if you took the rate of increase in one of those low years and projected it unchanged into the future, we had enough water to last until about 2005, or something like that.

Warne: I thought then that if it were as foolish as they said for us to use the figures of the rapid increases of the late mid-1960s in the prognostication of what our demands would be, it was equally silly of them to use the record low of all time in the growth of the state, when a lot of us felt that no Democrats were coming to California [laughter], to prognosticate what the water requirements are going to be in the future, and to adjust long-range programs against such variables.

Now, absolutely, we were right. It might have been perhaps not appropriate for us to say we're going to use all of the entitlement water by 1985 instead of 1990, but certainly, now that the population increases have resumed—largely through immigration, but not exclusively—we're going to run out of water much sooner than Reagan thought. And the time when the construction should have been under-way has been lost irretrievably.

I don't think it makes much difference, really, whether it's 1985 or 1990, or even the year 2000. The project certainly is going to be needed in the whole in the future at a date that grows nearer every year. Having kicked loose the advanced planning and construction programs for a period now of more than twelve years is going to put us in a bind. That bind is either going to come earlier than 1990 or later than 1990, because if we resumed the program full force right now, we couldn't catch up with the construction till about 2005.

Chall: So your feeling is that the plan that was established in the sixties was a good plan, that it should have stayed in place.

Warne: I don't think there's any question about that. That was not only a good plan, but it was a legally authorized plan, and it was effected in an obligation that the state made, after approval by a vote of all of the people, with the water users' organizations which serve two-thirds of all the people in the state. Maybe the project won't serve Santa Barbara and San Luis Obispo now, as we expected, since they seem to have backed out of their promises to take project water, but even if they are excluded, the quantities involved are very small and other water service contractors already are seeking to acquire them. As you know, that election they had down there seems to have signalized the final withdrawal of Santa Barbara County.

Chall: What was the function of the California Water Resources Development Fund? Was that a sort of pro forma? Would any of those people in that fund really understand all the complications of bond financing and the financing of the water plan, or did you have to rely on people like Dillon Read or people in the controller's and treasurer's offices to assist in determining how the bonds should be sold?

Warne: Actually, the California Water Development Bond Committee--what did we call it?

Chall: California Water Resources Development Fund. That was the group--let's see, there was you, and--

Warne: Yes, it was me--

Chall: --the controller and the treasurer--

Warne: Brown, the director of finance--

Chall: I think that was it.

Warne: No.

Chall: Was there somebody else?

Warne: Oh, wait a minute. No, we had both Porter and Burns on it.

Chall: Oh, did it?

Warne: Yes. And the controller.

Chall: The controller, yes. That was Cranston at the time.

Warne: Yes. And Cranston even attended once in a while. Governor Brown attended the first meeting.

Chall: Was it pro forma?

Warne: It was a legal requirement. With the aid of Dillon Read and our own staff, we made up a schedule of proposed bond sales to meet our projected construction requirements. We had to clear them through the Department of Finance. The Department of Finance sat on all of these bond fund commissions. I mean, every bond fund had such a commission. Finance was controlling, really, on when you went forward with a sale, because it didn't want all of us who were authorized to issue bonds to start selling them on the same day, so they spread the sales out.

They really decided, I think, more specifically than anyone else, on the precise time that the call would be made. We made our recommendations. When you went before the commission, it was pro forma. I don't recall that it took five minutes to conduct one of those meetings, except for the first one when we had a picture made. I don't recall that many of the members attended regularly.

- Chall: What apparently you did in the Department of Water Resources is to sell bonds early. I've forgotten that first set of bonds that you sold out of \$50 million.
- Warne: Those were bond anticipation warrants.
- Chall: That was a unique approach that you had to take at the time, however.
- Warne: It was a unique approach. We got the money for almost no interest at all. An exceptionally good deal. Right now I can't remember why it was that...
- Chall: There was a case in the courts, so you couldn't sell the hundred million until the case was argued.
- Warne: I guess that's right.
- Chall: I wondered who might have helped in figuring out this solution which was never tried before.
- Warne: Dillon Read, and B. Abbott Goldberg, and perhaps John Hunt. It was a highly successful--
- Chall: Did you all attempt to--Oh, it's twelve o'clock.
[break for lunch]

The Legislature and the Project

- Chall: Let's see how far we can get today. I wanted to go back and get some information about those first couple of years when you had to make sure that the State Water Project was going to function as it had been planned. That first legislative year--1961--I think you told me once that the legislature was arguing the whole water issue all over again as if nothing had passed.
- Warne: Yes.
- Chall: I noticed in the Western Water News that column by Robert Durbrow about that 1961 session. It seemed that Senators [Stephen] Teale--let's see who else--[James A.] Cobey and others were attempting to pass bills that would require the Department of Water Resources to have budgets for bond fund expenditures approved by both the California Water Commission and the legislature, and there were other bills of this kind which would have made it very difficult for the department to operate with independence. How did you manage to keep those from passing?

Warne: We opposed them as vigorously as we could, which was sufficient, really. The governor stood firmly with us. We had the full support of the governor, who was also twisting arms here and there, and I think we had the support of most, if not all, of the water service contractors--there were about thirty water service contractors and they represented important constituencies of many senators and assemblymen.

We attacked that kind of legislation from every place that we could reach. I spent far more time than I like to remember over there in front of committees during that period. That was the whole session, really, which ran, it seems to me, from January to August or early September in 1961.

Chall: Much of it was devoted to holding back, at least on your part, any major changes in the Burns-Porter Act.

Warne: Yes, the governor had agreed the legislature could have this particular session before we sold any bonds. So everyone in the legislature, and perhaps every interest that had an axe to grind outside the legislature, made a run at us during that period. George Miller's run in an effort to keep us from using the Central Valley Project Act was, I thought, the most serious one, the most difficult, the most arduous series of hearings that we had.

Chall: But ultimately, you won that in the court, so it didn't matter.

Warne: Yes, we won it in the court, actually. The fact that we had it in court, and the fact that we won it in court, finally quieted them. They didn't think they could get a law through that would reverse us after that. What they hoped to do was to keep us from going to the court and getting that decision or to obstruct it.

Chall: Was Senator Miller always difficult with respect to any water action that you had before the legislature in those years?

Warne: George Miller was--I don't know whether I mentioned this in our first session, that he was greatly opposed to the State Water Project. Also, he was, in those early years, a very great supporter of Pat Brown and also, I think, of me, as an individual. But he was much opposed to the State Water Project and he hoped to be able to frustrate it, even after the election when the voters endorsed the Burns-Porter Act.

He was dinging on it so hard that I remember an occasion or two... We had several different meetings with George in the governor's office, some of them on constructive issues like the Contra Costa-South Bay Aqueduct, which he did not oppose, as a matter of fact,

Warne: but others on more general subjects related to the State Water Project. Finally the governor said, "Oh George, you're embarrassing me with this. Can't you lay off, you and Hugh Burns?"

George said, "Well, we don't want to embarrass you, Pat. Why don't we turn and throw our rocks at Bill Warne? He can take it. This won't affect you."

I said [laughingly], "Hey, hey, hey!" And the governor said, "Okay, go ahead, do that."

So he did turn thereafter and instead of addressing these various objections to the governor, he addressed them to me. This had gone on some time and at times the criticism was rather personal and bitter. I finally went over to see him, and I said, "George, you know, this water project--we're going to build it--and I would suggest that you be a little less personal in these attacks, since I think you might destroy my usefulness in the program, and I don't know of anyone else who could carry this project through." So he did; he did tone down his attacks and depersonalized them.

Also, at the very time, in part through his own agitation, the county board of supervisors in Contra Costa County reversed itself. It had agreed to take some water out of the South Bay Aqueduct. They reversed themselves, in part owing to George Miller's objection to the project as a whole.

This left me with the proposition of having some capacity in that aqueduct that wasn't contracted for and, therefore, with no means of assuring that the project was going to get the costs of the construction back, get the money back in full. I went over to see George and said, "Hey, George, what shall I do? Shall I now trim down the size of that aqueduct and save the money, which will preclude Contra Costa County ever participating in the project, or shall I keep the capacity in and run the risk that we will have a relatively small amount of our construction costs that is not going to be covered by reimbursable contracts? If Contra Costa County never comes around and takes the water, that portion of our investment in the aqueduct will not be reimbursed."

He said [softly], "Ah, Bill, we need that water. We surely will contract for it. Don't trim the project down."

I said, "Okay, with that understanding with you, I will go ahead and build the aqueduct to full size." However, Contra Costa County did not change its mind and hasn't to this time, and there is a small amount of that capacity that isn't covered. But George never raised and never permitted anyone else to raise that as an issue, as an objection to the water project thereafter.

Chall: What was his primary problem up there?

Warne: The fact is, Contra Costa County was a very rapidly developing county and it has these large industries along the estuary, or rather, along the strait and the lower Delta. They all benefited from having fresh water flow past them. They did not want flows reduced by diversion through the aqueduct to the south. They didn't want to have to contract for water through a canal system. The amounts they actually needed could be efficiently supplied by canal, but their supplies would no longer be free in the river for their taking.

However, these desires put them in a position where they had to object to the diversion of water out of the Sacramento-San Joaquin River systems by reason of the fact that if they didn't, the quality of the water that flowed past their intake pumps might be reduced to the point where it might become unusable by them for the purposes they had in mind.

Now, I'd met several times with those industrial people and I thought that they themselves were willing, finally, to see a contract for services from the project made. But by that time, they had so thoroughly set the political attitudes in Contra Costa County, especially among those new residents in the Walnut Creek area, that they couldn't change the public attitudes.

The Contra Costa Water District, the one that contracted originally for water from the Central Valley Project, for the Contra Costa Conduit, has always been in favor of Contra Costa County participating in the State Water Project. On several occasions, we had even a majority of the board of supervisors, but before they could get to the point of signing a contract, there was always a flip flop because of the political pressures within the county.

Chall: My, that was a tough act always. At the time when he [Miller] felt it really might harm getting the water, then he would back away?

Warne: Every time. Every time.

Chall: Because he knew they wanted the water.

Warne: Every time. I remember telling Goldberg one time, "You know, George Miller is a friend of mine and he's not going to push that too far." Goldberg said, "Well, with friends like George, you don't need any enemies." [laughs]

Chall: That's the way it seemed.

Warne: That's the way it seemed.

Chall: What about [Carley] Porter? There are times when, apparently, he was not always on the side of the governor.

Warne: I don't know of a single time when the governor couldn't rely--I don't remember now, of any time when we couldn't rely on Carley Porter's assistance where the State Water Project was concerned. No, I can't remember such a time. He was always helpful. Now, sometimes he advocated, "Go slow," or "Don't do this now," but I think without exception, he had good reason for the cautions. I mean, he knew the political situation within the legislature, or the conference committee, or whatever it was we were working with, better than an outsider. I had full confidence in Carley Porter, and I think he did in me, too. He resisted pressures of the MWD and stood with us on the east branch.

Chall: You mentioned Hugh Burns a little while ago as one of the opponents along with Miller. The fact that he had had his name on the main bill--Burns-Porter--of course, that was probably a political move.

Warne: It really was.

Chall: Was he never for water then? I mean, was he always an opponent or difficult?

Warne: He was not always against us. You just couldn't count on him, especially if the "river rats" were running, the "river rats" being that coterie of senators led by George Miller. Hugh Burns was a member of the "river rats."

Chall: [laughingly] That's what you called them?

Warne: That's what they called themselves.

Chall: Oh, they did? I see.

Warne: If the "river rats" were running, you couldn't count on Hugh Burns one hundred percent. But now he thinks he supported me all the time. I see him once in a while. Even then, maybe he thought so. But when the chips really got down, especially in the political infighting, he yielded to another.

Chall: Oh, he did. Miller was that strong in the senate then?

Warne: Miller was that strong.

Chall: [musingly] He was a strong man.

Warne: Yes.

Chall: On water, or on other issues, so that they always had to work together?

Warne: On water and on finance and anything else he was interested in, which was most everything.

Chall: I understand he was a very tough man.

Warne: Yes, he was tough. I remember the first time I met him, he was running for the state senate and he came back to Washington. The other George Miller, the congressman from Alameda, and I were very good friends, and had been for years. I got a call from that George Miller and he asked me to come down to the capitol immediately, which I did, and he said, "I want you to meet George Miller, Jr."

I said, "My gracious, George, I didn't know you had a son." He said, "Oh, he's not a son of mine, but he's in my district." At that time his congressional district incorporated Contra Costa County. George Miller was from Alameda. "And he's going to run for the state senate and he's going to be a good man." So from that time on, really, I counted George Miller, Jr., the state senator, as a friend. While he was a tough man, I really think, when I told him, "Look, lay off," he did.

Chall: These behind-the-scenes activities are really so interesting and one would never know them unless one were there. There's no way to know. No way.

The Kern County Water Agency##

Chall: How did you work things out between 1961 and 1963 with the Kern County Land Company?

Warne: No, Kern County Water Agency. Let's not confuse the two. The Kern County Land Company was never a friend of mine.

Chall: Oh, it wasn't?

Warne: Kern County Water Agency, I suspect, was organized in large measure by reason of the fact that I insisted that someone develop a single program for all of that group of water users in Kern County.

Warne: Bakersfield, or parts of Bakersfield, was under the influence of some political leader, I guess. I never was able to say for certain who it was who was throwing the bricks down there. But they were never quite in line.

The Kern County Water Agency was organized under the county board of supervisors, originally. I've forgotten how they elected their first board. I believe the supervisors elected them. It was a specialized agency. It was to contract with the state and wholesale water to all needed water districts in the valley lands of the county. The Kern County Water Agency obviously wanted to get water for agricultural purposes.

I insisted that there wasn't going to be any special consideration for agricultural water, that they ought to be able to pay the full price for water down there. At that time, I think we calculated the costs at about nineteen dollars an acre-foot.

However, there was an element that insisted that Kern County land owners ought to abide by the 160-acre law, which was not a part of our State Water Project Act, the State of California Central Valley Project Act, or the Burns-Porter Act.

When we negotiated the contract with the Bureau of Reclamation for the San Luis Dam, the joint-use facilities, which included 101 miles of the California aqueduct as well as the San Luis Dam and the forebay, we had obtained the agreement with the secretary of the interior that the 160-acre law wouldn't go with the state project water because of our participation in the joint-use facilities. I felt, however, that if we were going to give any subsidy to Kern County farmers at all, we ought to have a land limitation on our project waters. (I remember Pat Brown and I, in the final negotiation with Pat Dugan, of the Bureau of Reclamation, signed it on December 31, at the governor's office in San Francisco. It was done just in time to go out and see the Shrine game with Earl Warren, who came for the game.)*

Chall: Wasn't that also what Pat Brown had campaigned on, that there would be no undue or unjust enrichment?

*For additional detail on the San Luis Joint-Use Agreement, see pages 130ff.

Warne: That's right. No unjust enrichment. It was a major point in the 1960 campaign for approval of the bonds. And that meant that either you sell the water for full price or, at least in my judgment, that if you had a subsidy, the farmers ought to return the subsidy as well, or abide by a 160-acre limitation, or limitation similar to the 160-acre limitation of the federal government.

So we figured out that the nineteen dollars an acre-foot, which, as I remember it now, was our calculation of what that water would cost, was actually being subsidized about two dollars an acre-foot.

Chall: Oh, really?

Warne: By reason of the Oroville power sales, or would be subsidized to that degree when the power plant was fully operating. So we said that the contract ought to have a land limitation in it or carry an additional two-dollar charge to non-complying farmers.

The negotiators for the Kern County Water Agency--these people were--several of them, I had worked with or against, or they had worked with or against me, for many years, since numbers of them were the same ones we negotiated with on the Friant-Kern canal contracts in the old Central Valley Project when I was in the Bureau of Reclamation.

Chall: Weren't they all pretty big land owners in here?

Warne: Yes, there were big land owners down there. Most of the people who were involved in our negotiations, however, were not big land owners, but they were the same ones who had represented the area in the days when they were trying to repeal the 160-acre law in its application to the federal Central Valley Project, back in the Congress of the United States.

They came to me and said that they needed some kind of assistance. They said nineteen or twenty-one dollars an acre-foot was, in the early years, a lot more than they thought the farmers could pay in the period during which they were developing their lands. I said, "All you have to do is read the prototype contract of the Metropolitan Water District of Southern California and you'll see that all water service contracts have to carry through on the same principles that are incorporated in the provisions of that contract. It doesn't say anything in there about special rates for agricultural users."

They said, "Well, you know, it would be advantageous to put the project to use earlier. No one is going to be taking anywhere near his full water entitlement in the early years. Why wouldn't it be

Warne: appropriate if we could take the surplus waters for agriculture during these years? The amounts would gradually diminish as our developments matured. We'd take it at, let us say, the cost of operation and maintenance, and maybe the Delta water rate, or something like that, and meld the costs of these excess waters with the costs of our entitlement waters, so that we'd have a rate that's somewhere between the two, and that gradually rises during the development period."

I thought that was a good idea. I thought it would be a good idea to get the added efficiency out of our system and to assist them if they were going to develop an irrigation project down there--irrigation systems require a lot of front-end financing. It would be helpful to get the mature project ready by the time the full price was levied on all of their entitlement waters. They would be that much better able to carry the full cost of the water when their entitlements matured.

I know we talked this over with the governor, and the governor was not opposed to the plan. But I said to them that the chances of getting the Metropolitan Water District of Southern California to agree to anything like that are remote indeed.

Chall: They were opposed to it right from the start, as indicated by the editorials and other written materials.

Warne: I thought MWD would be opposed to it. I took it up with MWD on several occasions without any success. I finally told the Kern County people that I didn't think it was going to be possible to work out a contract on the basis of melding excess and entitlement water prices for the benefit of farmers.

At that time, Stan Kronick, Stanley Kronick, an attorney here--a long-time water lawyer, used to work for the Bureau of Reclamation, an old staunch friend of mine for many years--was the attorney for the Kern County Water Agency. Stan and Abbott Goldberg had worked together actually on the trials of a couple of those landmark cases on the Central Valley Project, in support of the 160-acre law, and sustained in the United States Supreme Court the application of the 160-acre law in the federal Central Valley Project area.

But Stan on this occasion [laughs] was, in effect, arguing the other side of the issue. I said to Stan--we had many meetings--I said finally, "Now, look, I tried to work this out with the Met. I didn't get anywhere." He said, "Would you have any objection if I should go down there alone, taking only two or three of the board members of the Kern County Water Agency? You and I, the department,

Warne: have agreed pretty much to the contract we could have if Met would agree. How would it be if I just went down there alone and tried this out on them?"

I said, "Stan, you aren't going to get anywhere, you know. Joe Jensen is adamant and most of the rest of the board have got their heels dug in. I've been over this a dozen times." He said, "Well, you don't have any objection though?" I said, "No, go ahead!"

He came back in a couple of days, maybe a little longer, and said, "They agreed!" Now, I don't know to this moment what it was that caused them to agree.

Chall: It was the same contract that you'd been working on.

Warne: Yes. I suspect [pauses], though I don't know, that Kern County Water Agency had to agree with Met that they would support Met in some political issue that Met foresaw might be arising. But for the life of me, I don't know what issue was serious enough to cause Met to shift on this issue. But the board did.

So I took the matter up with the governor, as I always did when we were varying the plan. I sent the agreement over--a memo to explain what it was we were doing--to the governor. I told him that Met had withdrawn its objections, the other water service contractors were agreeable, and that therefore I proposed to go ahead with the Kern County Water Agency contract, if he had no objections.

Then he called me over and I found that--I guess I might just as well tell you the whole story.

Chall: I wish you would. [chuckles] This is for the record. It's history.

Warne: I found that Abbott Goldberg and Hugo Fisher, who had then succeeded me as the Resources Agency administrator, were in the governor's office. And they were there when I got there, which meant that they had been talking with the governor before he called for me.

They raised objection to the Kern County Water Agency contract despite the fact that at least Abbott had worked on it, on the grounds that it represented--the excess water provisions represented--an additional subsidy to the large land owners down there.

I told them that I was in a very difficult position, that we were going to include in there the 160-acre provision to represent the power subsidy and that we had had this up before and had agreed that if Met could withdraw its objections, we would go for the excess water provisions. And I said that I thought this was a pretty rough

Warne: time for anyone, especially one on my staff or connected with me, to be raising this kind of objection. It would embarrass me and might embarrass the governor.

Chall: You mean the objection was on the fact that you were going to provide this excess rate regardless of acreage. Is that it?

Warne: No, we weren't going to provide it regardless of acreage, but the objection was that the acreage provision ought to be more stringent as a result of this additional concession, the meld of rates to lower the cost of water in the early years of irrigation development.

Chall: Oh, is that right?

Warne: Yes.

Chall: I see. State it somehow.

Warne: Yes. The governor, as I said a minute ago, supported me every time except on one issue and that was the one on the water fund. So he supported me on this occasion. I never had any more difficulty on this point. It was the only time I had a real problem as a result of Abbott Goldberg serving both as a counselor to the governor and as my deputy.

Abbott and I were then, and are now, very good friends, but I thought that was a pretty rough go. I had lots of differences with Hugo Fisher from time to time and this wasn't the only one of them. They grew out of his ambitions to operate in the department's program areas from his position as agency administrator.

I don't know. Abbott might have been right that maybe we should have had a stronger provision, a 160-acre law, than the one we got into the contract. But, if so, it should have been done earlier. It would have made no difference anyway.

Chall: What kind is in the contract?

Warne: Nothing's in there now because Mr. Reagan took it out.

Chall: Did he change the rate or just change the concept?

Warne: Just took out that provision about the acreage restriction or price increase as a result of the subsidy from the Oroville power. If we had had a more stringent provision, I'm sure it would have been taken out even more quickly in the next administration, because that's the kind of administration it was. If there is unjust enrichment, Reagan, not Brown, is responsible for it.

Warne: Nevertheless--well, that's the way it turned out.

Chall: What actually was the acreage provision in this Kern County contract?

Warne: The water users on lands in excess of 160 acres would have had to pay a two-dollar premium on their water. This might have been an influence on subdivision and compliance, especially if the nineteen-dollar charge proved to be about all the irrigators could afford to pay.

Chall: What was the Metropolitan's objection to the Kern contract? Was it just that this was a different type of contract than the rest of the state was going to be setting up for its water agencies?

Warne: No. I didn't participate in the negotiation on Met's contract. But obviously, their intent was--since they figured they were going to be paying more than half the cost of this project, their intent was to set the pegs, lay out the financing plan, and nail it down. They wanted no one to get an advantage over them. And that's what their contract tried to do.

So when some other outfit came along, which, while it was taking a good deal of water, didn't expect to pay anywhere near the amount the Met was paying, they opposed it. To this day, there's no real good feeling between especially the Kern County interest and the Metropolitan Water District, and probably there never can be. Met suspects the agriculture interests of trying to get advantages and shift the burdens onto the municipal water users.

The only way we ever got an accommodation at all was by getting them both into the State Water Project. It is an uneasy alliance. They have even fallen out recently on the Peripheral Canal, though they both need it desperately.

Chall: That was quite a problem there for a while. They ultimately, and probably by now, are paying top price, aren't they? There's no surplus water, is there?

Warne: At the present time, I think they have a lawsuit against--I'm not sure--but they have a lawsuit against Ron Robie because he charged them full price for water.

Chall: Didn't they know that was going to come? I mean, everybody said that this would only be good for a certain amount of time.

Warne: No. There would have been surplus waters.

Warne: It gets pretty complicated. In 1977 [during the recent severe drought] the Met gave up some of the water it was getting and that water was brought north. Kern County felt that that water ought to have been allocated to agricultural users and not to Marin County or somewhere else where the state had no contractual obligation to provide service. That released water turned into surplus water according to their claims. No, it hasn't really worked out the way it might have been anticipated to evolve.

This is the kind of controversy that is probably always to be expected in the long-range operation of a complex project. You can't foresee all of the circumstances, you know. Kern County thinks it's paying more than it should now. I cannot pass judgment. Times and attitudes have changed. The terrible drought of 1976-1977 has influenced the thinking.

Chall: The way these water rates and water contracts are determined--all the variations in it about reimbursable and non-reimbursable, and flood control, and power--it's incredible to me that anybody [chuckles] can figure it out at all.

Warne: It really takes a battery of computers and accountants to do it.

Chall: And an assumption you make along the line, and if the assumption changes...

Warne: We try to get the assumptions made at the outset.

Chall: But if the assumptions change at all, everything changes along with them.

Warne: Yes, I'm sorry to say that that's true. All kinds of assumptions are being made. Here, for example, our contract with the Santa Barbara Flood Control and Water Conservation District, which is an instrument of the county board of supervisors--the provisions were that by 1980 they had to make up their minds whether they were going to take the water allotted to them in the coastal aqueduct or not take it. In the meantime they were to pay certain costs associated with their privileges as participants in the project.

Just within a month, they have put a vote to the people for a bond issue to construct the facilities needed to bring the aqueduct to Santa Maria, and it was turned down. Now they're saying, "We've been paying \$700,000 a year, something like that, for the ultimate privilege of getting water. We're not going to get it, so we can sell this water to somebody. We'll sell the water to Kern County Water Agency or to someone else. We can recover our investment."

- Warne: No, no. Not in my judgment. No one can sell project water but the state of California.
- Chall: Isn't that an interesting concept? That they think they own the water now.
- Warne: They think they own the water. If they ever establish this, then these water service contractors will be bargaining with one another, all up and down that canal. No, no, not so.

The control of the water, as we said when we were negotiating those contracts--you have to contract with us. You won't get this water any other way! You contract with us. We are responsible for the integrity of the project and redemption of the bonds. And the contract says what water you get, when you get it, and the amount you get. It says what you as water users must pay.

- Chall: That does open up a can of worms, a whole new--what is it called? First in sight, then in right, or something?
- Warne: First in time is first in right. [chuckles]
- Chall: Now you've got a whole new area. Instead of the river bank, you have the canal bank.
- Warne: The contract provisions of the law are the same, we believe, in the State Water Project as they were for the Bureau of Reclamation on the Central Valley Project. No one can barter or bargain for the Central Valley water except that he bargains or barter with the secretary of the interior. No one can bargain or barter for water on the State Water Project except that he bargains and barter with the Department of Water Resources and, ultimately, the governor. Ultimately the state government, which has pledged its credit to make up any deficiencies in the repayment of the bonds, is responsible. It must guard the integrity of the project and it must carry through the plan. Ronald Reagan, Jerry Brown, and any future governor had or will have to share this responsibility.

The Metropolitan Water District

- Chall: That will be something interesting to watch.

What was the whole problem over the east branch about. Was that a really serious matter?

Warne: Yes, it was serious and it still is serious. In theory, it seemed to me--still does--the bulk of the water going into Southern California should have moved through the east branch to the Perris reservoir and to outlets along the channel which brings it to the "high side" of the coastal plain. It is a more natural distribution system.

We discussed earlier the making of a contract with the San Bernardino Valley Municipal Water District. We also made a contract with the Desert Water Agency, one with the San Gregornio Pass Water Agency, one with the Coachella Valley County Water District, and I think--I'm not sure whether we contracted with anyone else. Well, we did. We contracted with the San Gabriel Valley Water District, which consisted of three towns down there, right in the middle of Met's service area. These other contractors were on the periphery, or outside of Met's service area.

Joe Jensen thought that Metropolitan Water District service area ought to include everything south of the Tehachapis, no matter. However, that bridge was really crossed when the contract was made with the San Bernardino agency. There was one other south of the Tehachapis to be served under a contract made before I became director.

However, Jensen thought that by limiting the amount of water that went through the east branch, he could control any spread of water outside the jurisdiction of the Metropolitan Water District of Southern California. He tried to force San Bernardino to annex to MWD, and the state to drop the east branch to preclude service to San Bernardino, which, alone, could hardly justify such a canal. So he turned and wanted most of the water, all of it really, to come through the west branch. This has involved the building of \$850 million worth of tunnels and all that kind of thing by the Metropolitan Water District to distribute the water it receives from Castaic reservoir 'at the end of the west branch.

It would have been a lot more efficient, I believe, had most of the water been brought in through the east branch--the major part of it through the east branch. Jensen was insistent; he controlled his board; they fought like cats and dogs. Even his engineers--though obviously they saw the logic of the east branch--they never quite caved in fully to Jensen. They never wanted the east branch eliminated entirely, but they did finally cave in so that the east branch is not as large as it was originally expected to be by the department.

Warne: So Met did such things as put a resolution in the legislature against the construction of the east branch. They never got it through. Instead we got one endorsing the east branch. And lots of other things of that sort. They brought fifteen directors and all the big shots of Southern California up to Sacramento and sat around the governor's office on at least one occasion, and they all spoke in turn to the governor. It was a formidable display of strength. The governor sat there and listened; we sat there and listened. He had called me in, being forewarned of the subject to be taken up.

Finally, the governor turned to me. I was the only one in the room except for the Met people. He turned to me and said, "Bill, can you do that?" And I said, No!" He said, "See, gentlemen, he won't let me." [chuckles] That ended the conference. He knew darn well we were going to build the east branch, but he was hearing them out. [laughs] Joe, almost to his dying day, retained his opposition to the east branch.

The Perris reservoir was the terminus of the east branch and we hadn't quite finished the construction by the time I left the department. We hadn't reached the Perris reservoir; it was finished by the next administration. The water was delivered through the east branch in 1972 to the Perris reservoir and they had a great occasion down there.

It was the only occasion that both Pat Brown and I were invited to appear and participate, by the Reagan administration, when they dedicated a State Water Project facility. The reason that this was the case at Perris was because they turned the invitation list over to a citizens committee down in Southern California.

We went out to the barren hills above the intake to the reservoir on this occasion. I remember that I was seated in the front row. Next to me was Joe Jensen, just as proud as punch of the completion of the east branch and the Perris reservoir. He was there to receive the plaudits.

Chall: What was the primary problem there? Was it a matter of control?

Warne: Yes. Met wanted the control. They did not get it. They don't have it today and largely by reason of the fact that we did not yield on two or three of their most bitter points. One of them--three of them--one was that you don't make any contracts south of the Tehachapis with anybody but Met. Another one was you don't build the east branch, or you delay it, or something else. And the third one was all contracts have to be exactly like the Metropolitan Water District contract.



William E. Warne at Windgap Pumping Plant, California State Water Project, Bakersfield, California, 1970.



At Perris Dam, State Water Project Dedication, May 18, 1973. From left: Mrs. Banks, Harvey O. Banks, Mrs. Gianelli, William R. Gianelli, William E. Warne, and Mrs. Warne.

Warne: Now, on the other hand, when the Supreme Court case was lost, Arizona v. California, Met suddenly found itself without 500,000 acre-feet of water that they had, I think foolishly, counted on in perpetuity. I had tried on several occasions before the court acted to get the MWD to consider the increase in their state project water allotment to take up the slack in their system that they were going to experience if they lost that case and the Central Arizona Project was to be built.

They refused to consider it. They thought they might weaken their case before the Supreme Court. I didn't think they would. As a matter of fact, I didn't think they had much of a case to begin with. But they thought they did.

When they lost the case, I immediately got in touch with them and said, "Now, look, let's make these adjustments." So they revised their estimates of the water needed from the State Water Project. We had some amount within the four million acre-feet of the project--it seems to me it was 270,000 acre-feet that hadn't been sold as yet. We hadn't made contracts for that water as yet under our original four million acre-foot ultimate requirement schedule.

We probably, I think, could have marketed that water in several different ways. We hadn't completed our marketing program in Southern California. Towns like Needles and others were in need of water, and certain exchanges might have been worked out so that we could have allotted that water. And other areas with water service contracts might have taken more. I offered to Met, since we didn't have any potential contractors avidly pressing us, that they could have the uncommitted portion. I suggested that we would also increase their original allotment by enough to make up the remainder of what they were going to lose as a result of the court decision. That amount turned out to be 230,000 acre-feet. I said I would take the requests for an increase in our ultimate water deliveries to the water commission for permission to increase the project yield by 230,000 acre-feet per annum, which would make our total allotment for the State Water Project 4,230,000 acre-feet.

I took this up with the governor to make sure that he didn't have any objection to it. He didn't. So Met agreed they wanted it that way; the increase of a total of 500,000 acre-feet was their figure. I took the matter before the water commission, had it approved, and we amended their contract to increase their ultimate entitlement to cover the lost Colorado River water. And that is how we believe we assisted in working out the real emergency situation that they were faced with down there.

Warne: They are still getting water, the full amount that they were taking before the court acted, from the Colorado River, but as soon as the Arizona Project [Central Arizona Project] is completed, which will be in another two years, then under the Supreme Court ruling, Met will be automatically cut back to just about half what it has been taking the past several years from the Colorado River.

Chall: But they do get that 4.4 million acre-feet that they--that some bill finally gave them.

Warne: No, they never did get four point...

Chall: Did the bill--it was one of the final bills on the Pacific Southwest Water Plan. I'm not really sure, but I thought that finally they did get full entitlement of 4.4 million acre-feet.

Warne: They didn't get 4.4 million acre-feet. Water users in the state of California got it! The California legislature passed the self-limitation act in order to clear the way for construction of Boulder [Hoover] Dam, which set 4.4 million acre-feet as the limit of all diversions from the Colorado River to California water users.

Chall: Oh, I see.

Warne: And the Imperial Irrigation District gets 3.9 of that.

Chall: I always thought this 4.4 always meant the Met. They argued so much for it.

Warne: Oh, no! Met's allocation never was more than 520,000, as I recall it, under the self-limitation act. But they built their aqueduct to a 1,200,000 acre-foot capacity. And they actually built up their uses in the aqueduct to 1,200,000 acre-feet several years before the Supreme Court acted.

They tried to insist that they had the right to continue using that amount. That's when Arizona took California to court. The Met and other California diverters opposed the authorization of the Arizona Project for many years. Carl Hayden finally got the project through the Congress in the last months of his long service, historically long service, in the Senate, and Arizona made their claims stick in the Supreme Court. At that point, the Met somewhat changed its tune.

Chall: What was Mr. Jensen like? We talked about the tough bargaining stance of George Miller, Jr. How much of Joe Jensen's was tough bargaining stance and personality? What was it a combination of?

Chall: Everybody speaks of him, or you always read about him, as such a tough bargainer. He represents the Metropolitan Water District, or at least did, for all those years.

Warne: Until his death--not quite. I mean, the last two or three years before his death, he did not control his own board with the same iron hand that he had earlier.

Chall: What gave him that iron hand?

Warne: What gave him that iron hand, I was never able to figure out completely, except that he had an unwavering block of votes, and he was ornery. He controlled the Los Angeles vote on the board, and while the Los Angeles votes did not make a majority, they were something like forty percent of the total. If someone voted against him, he saw that the first time that fellow had something up before the board, it got pretty rough treatment. He maintained almost an absolute dictatorship of the board.

He did it through getting outfits like the San Diego County Water Authority, which had the next largest number of directors to the city of Los Angeles, and several others in his camp. He held them awfully hard--I thought then and think now, on a board as big as that and with such a complex weighting of votes, it is next to impossible for someone who has only a lightly weighted vote to overturn any solid organization within the board.

Now, it wasn't until Joe obviously became too old to function properly that his control lessened. And even then, they wouldn't replace him as the chairman. He did a lot of very fine things--do not misunderstand me--and very few people could have represented that diverse area down there with any greater success than he did through that whole period. In a large measure, Joe was responsible for the way MWD met the needs of the region, and the record shines with achievement.

He just got to the point where he thought that if he could run the Met, he could run the state, too. Some of us didn't think he could. But that was his attitude. If more cautious heads had not restrained him, Jensen would have kept the state out of the water project and tried to build a project into Northern California of MWD's own.

Unlike George Miller, who had certain warm or malleable facets to his character, I never found one in Joe Jensen.

Chall: Is that right?! [laughter]

Chall: So whenever he and the fellows came up from the Metropolitan Water District, you always listened carefully, I guess. But you didn't give in. Was that a political problem?

Warne: I never gave in on any point to him where I thought...I didn't think, for example, that there would be any success in getting that Kern County thing worked out, because I tried it and I met Joe's opposition.

Joe tried to get us to design a different kind of pump lift at the Tehachapi crossing and he never yielded on that at any time. But we went ahead and built the single lift Tehachapi crossing. He tried to get the east branch knocked out and he didn't succeed. Now, he never came to me at any time and said, "Well, I think you were right," although all of his engineers did. You go down there and they say--even his board members say, "Boy, we sure wish we had more water coming in through the east branch." But Joe never yielded that.

However, that didn't inhibit his participation in the celebration of the completion of the east branch and taking all the bows. No, not at all.

I think I told you he called me on the phone one time and said, "Bill, if you won't believe what people say about me to you, I won't believe what people say about you to me!" [laughter]

Chall: There must have been a lot of talk!

Warne: I talked with him many times. When I announced my resignation, he called me and said he was sorry that I had done that. He asked me really to consider with him some suggestions of who might succeed me. He was the first one to suggest Bill Gianelli. While I don't think Bill yielded to Joe Jensen, I think Joe was quite influential in his eventual selection by Governor Reagan as the director of the Department of Water Resources.

Chall: It's interesting that you were the only non-engineer in charge of this department, or whatever it had been in the past. Throughout most of its history, engineers have run this department. I guess that puts a different stamp on the department, doesn't it?

Warne: The department hadn't been in existence very long as a department when I became the director. Four years. The fact that I wasn't an engineer was not raised as an issue. Just between you and me, I'm a better engineer than a good many of those other directors. I worked all my life in engineering organizations after I joined the Department of Interior in 1935.

Warne: I don't think I ever thought exactly like an engineer. The only difference between being an engineer and a non-engineer, if you stack both up with twenty-five or thirty-five years of administrative experience, is that the non-engineer is a little more likely to look at some of the other disciplines: economics, sociology, and some of the other things that are involved in resources development than the engineer is; a little less likely to think that you can always arrive at a technical solution to any problem that is brought up and resolve all issues with a slide rule.

Relationships with the Associations of Water Users

Chall: What were your relationships with the major water users' associations, like the Feather River Project Association, the Irrigation Districts Association, the Chamber of Commerce? Were they different from those of your predecessors in the department--Hyatt, Edmonston, Banks?

Warne: Hyatt and Edmonston had departed at least four years before I came on the scene. I had worked congenially with each of them when I was in Washington.

California had grown quite a lot in that time, and changed quite a lot in the immediate post-World War II years. I always approached any one of these jobs with what I considered as the appropriate stance for the public administrator. I listened to all of the interest groups and organized water people, but I made up my own mind in the light of what the public policy as enunciated by the legislature or the governor, or both, dictated.

I had not known Harvey O. Banks, my immediate predecessor and the only director of water resources before me, when I was with the federal government. We worked together on some matters of mutual interest when I was director of fish and game and director of agriculture and he was director of water resources. We had an easy and pleasant relationship and still have today.

The Feather River Project Association, I felt, should have gone out of existence after we got the Burns-Porter Act through. I even told them that. They didn't like it. Now I'm on their advisory council several years after I've ceased to be director. They wanted me on their advisory council and I have gone to a couple of their meetings. They now have a different name; they're no longer the Feather River Project Association. My fear was that an advocacy group would find it difficult to remain on the sidelines after it achieved its primary purpose. I was afraid, if it continued, it would nit-pick and oppose the action agency in response to special interests who would gradually take control. It would fall prey to narrower influences.

Warne: But the IDA, the old Irrigation Districts Association, which is now ACWA [Association of California Water Agencies], I thought really represented and still represents the basic interests of agricultural water users. Now they've tried to expand under ACWA to represent all water users and all water users are members of ACWA today. They're a very conservative group but also very real. They really represent water users and not promoters of any other more esoteric program that has to do with water. [chuckles]

I always answered every call I got from the IDA to appear and to discuss with them any subject they wanted. I made a report on what we were doing, how we were progressing, at every one of their meetings, all the time that I was the director.

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Chall: They always felt, then, that they could get a fair hearing from you?

Warne: I don't think there was ever any question about it. As a matter of fact, I think we had a closer rapprochement than maybe they had with some other directors. Many of these people were real good, old friends of mine, dating back to Bureau of Reclamation times.

Chall: I suppose they were.

Warne: Then also there was the state Chamber of Commerce. Now, I didn't have so much to do with them. I thought they were--I don't know how to put this--I don't want to be unfair.

I thought that the state Chamber of Commerce had a little too much of a San Francisco attitude. And I never appreciated the Chronicle, except to read.

Chall: [chuckles] I see. That goes back to the days of the Octopus?

Warne: Yes.

Chall: In terms of their stance on the water project?

Warne: On the water project, yes.

Chall: They had a strong--was it a strong subcommittee on agriculture, or water resources?

Warne: They had a water resources subcommittee, now, I believe, the natural resources and environment subcommittee, but it is still the water committee.

Warne: However, during that period, I didn't think their water resources subcommittee was as effective as perhaps it is now. I'm a member of that committee today and I do participate some in its work. I think they try to do a pretty fair job. However, they have to filter everything through the state Chamber of Commerce board and that sometimes temporizes the action.

I was not nearly so impressed at that time, while I was director, with the work of the state Chamber of Commerce subcommittee as I was with either the old IDA or the Feather River Project Association.

Chall: At least for the others, you knew exactly where they stood and what they wanted, and you could discuss policies and issues with them on that basis.

Warne: Yes, and every once in a while some outfit flying under the banner of the Chamber of Commerce...I remember the Greater Bakersfield Area Chamber of Commerce took out after me in a very personal way on one occasion.

Some members of the state Chamber of Commerce deliberately circulated, during the Brown-Nixon campaign for governor, literature that attacked me, and through me, Brown.

Chall: Attacked you as being too liberal? Corrupt?

Warne: No. Attacked me as being the last of the great spenders.

Chall: Oh, is that so?

Warne: The time that I was in foreign aid.

Chall: Just anything?

Warne: Yes. And here I was, spending California's money on the State Water Project. They figured people would be against spending even if they weren't against water. But we licked the pants off them. [laughter]

Plans for Augmenting the Flows of the Sacramento River System:
The North Coast

Chall: As I understood it, one of the reasons you were able to offer the additional acre-feet of water to the Metropolitan Water District was because of a plan at that time to augment the water in the Delta from the north coast.

Warne: Our expectation of augmenting the flows of the Sacramento River system--that expectation dated clear back to the Burns-Porter Act itself. That didn't arise simply by reason of the fact that we were going to up the four million acre-feet per annum to 4,230,000 acre-feet.

We were only in a position to guarantee, even with Oroville Dam, about half of the four million acre-feet without additional works.

Chall: Only half; I didn't realize that.

Warne: Unless we could augment the supply. Now, there were several ways the supply could be augmented. We could augment it in part by getting better control in the Delta, which the Peripheral Canal would do. We could augment it by developing some additional waters in the Sacramento Basin itself, such as on Cottonwood Creek, which was one of the proposals.

We even had a dam named Ishi up there. They haven't built it yet, but it's there. Then we could augment it by bringing water in from the Eel River or through the Glenn complex. The Glenn complex was planned at that time and is still planned to capture some additional water in the Stony Creek Basin and also to make it possible to bring more water in from some tributary of the Trinity, or eventually, the Klamath itself. Also, it could be used for off-stream storage to conserve more Sacramento River flood waters.

We had a multitude of plans, some of them far out. Some of them not involved in any way in supplying the necessary roughly two million acre-feet more water that we were going to need by the time the State Water Project got to its full maturity.

Chall: May I just interrupt you a minute? I want to see if I can understand this completely. In 1980, was it, when the initial California Water Plan is supposed to have been completed out of the Burns-Porter Plan?

Warne: Not completed. That was the year the water was all going to be used.

Chall: All going to be used. And is that amount of water only two million some acre-feet, or was it supposed to be four?

Warne: No, that amount of water was 4,230,000 acre-feet.

Chall: And that was supposed to come from...?

Warne: About half of it would have to be through augmentation--

Chall: From the Feather River? From the Oroville and its conduits?

Warne: No. The Oroville reservoir didn't produce anywhere near that much. The Oroville reservoir and the unallotted waters in the Sacramento Basin only provided about half of the four million. We always intended--the law itself says that you're to build additional facilities. The law requires the offset of certain bonds in order to have money to build the additional facilities.

Chall: Yes, I understood that, but I always thought that that was in addition to the four million.

Warne: No. Oh, no. Oh, no. Not in addition to the four million. In addition to the yield of the initial facilities, which provide about half of the total amount.

Chall: I see.

Warne: So when we went for 230,000 more, we were only increasing fractionally, really, something over ten percent, the additional amount that was going to have to be developed.

Now, mind you, as long as the federal Central Valley Project isn't using all of its allotted water, you have the same situation that you had on the Colorado River. Arizona wasn't using all its waters, so someone else could use it in the interim.

Chall: When Pat Brown announced a \$3.7 billion expansion of the \$1.7 billion project, a fifty-year plan, that was the north fork of the Eel River and the other. You had announced a plan for the middle fork of the Eel River. That's what we were just talking about, the Glenn complex?

Warne: No, the Glenn complex is north of that. Dos Rios Dam is the Eel River project we first contemplated to build.

Chall: But the \$3.7 billion expansion, how was that to be financed? Not by offset bonds?

Warne: Oh no, no. I don't even know what you're referring to. That never was a part of an adopted project.

Chall: I see. You announced it in 1963. I always thought that was sort of interesting, just about the same time he was withdrawing funds from the tidelands oil. Well, now, this comes from Western Water News. There it is; that's my note.

Warne: [reading] September 29, 1963, Governor Brown announced proposed fifty-year, \$3.7 billion expansion of the present \$1.75 billion State Water Project; would develop additional twelve million acre-feet of water in California with a coastal area exclusively for state use.

- Warne: I guess that's it. That was in State Bulletin 136. That's the state forecast. That fifty-year water program was something that was introduced for consideration. But Bulletin 136--that's the north coast area investigation--that plan was in anticipation of determining how much water was available out there and how much it would cost to develop it.
- Chall: That's in addition to the--
- Warne: That would be in addition to the--
- Chall: --four million acre-feet of water that you had planned for in the Burns-Porter Act?
- Warne: Yes. This was up to twelve million acre-feet.
- Chall: So there was lots of planning afoot and still is.
- Warne: Still planning, though they're not working on the Trinity and the Van Duzen or the Klamath now, on account of that Wild Rivers Act. Even the Wild Rivers Act did not preclude planning on the Eel, but really asked the state Department of Water Resources to bring in their plan for development of the Eel in a ten-year period.
- Chall: What was the California State Federal Interagency Group? I think that came in during your regime. It was supposed to adopt a joint working program to formulate a single plan of water resources development for the Eel River Basin. Wesley Steiner brought that forth; [shows document] that's Western Water News, September, 1966.

It seems that gradually not only the state but the federal government, the Bureau of Reclamation, I'm not sure about the Corps of Engineers, but all these agencies seemed to be trying to get a foothold and develop plans for these rivers. How did that come about?

- Warne: The Bureau of Reclamation had in process the planning of a dam at the English Ridge site on the south fork of the Eel. They went quite a ways with that. The purpose was to bring water through into the Lake Berryessa project and to supply some, I think, in the Napa Valley, too. This was to be a general augmentation of the Central Valley Project supply.

The corps had done a great deal of work and is still doing the work over there on the control of the floods, especially in the Russian River Basin, and has done some work on the Eel. The Eel is a terrible river, very bad. They had done work in the Klamath, Trinity--I think every one of those rivers--Van Duzen and Mad. They haven't abandoned this work yet.

Warne: However, the bureau pretty well has ceased to work on the English Ridge project as a result of rebuffs it has gotten. The state Department of Water Resources has the responsibility, under state law, for planning the ultimate development of the water resources of the state, both for flood control and for use. We have had a State Water Plan since 1921. It has been reviewed constantly and updated several times.

As that one article there indicated, we had a comprehensive plan for the development over a very long period of the north coastal rivers. About forty percent of the waters in the state of California flow in those rivers, and it is not being controlled. Obviously, to develop any appreciable new waters in the state, one must go to the north coastal streams. There isn't that much undeveloped water left in any other of the streams of the state.

The Burns-Porter Act anticipated that we would have additional projects even beyond full development of the initial facilities of the State Water Project. Our initial problem was to choose among several alternatives that one or the ones which seemed to be the best for earliest development in order to conserve the needed water for the State Water Project. We narrowed the choice down to the Glenn complex and to the middle fork of the Eel, the Dos Rios project. We spent quite a lot of money on those two.

Chall: On engineering planning.

Warne: On engineering planning, and drilling for geological exploration of a tunnel to see whether the diversion tunnel would be okay, and on that kind of thing. I even went to the extent of designating the Dos Rios Dam and its diversion tunnel as the additional project contemplated on which we would spend those offset bond monies. That decision was reversed by Reagan without substituting anything else for the project. It was done simply on the guess that it was going to take longer to develop the full needs for water in the State Water Project than we had foreseen because the population growth had dipped at that time. So they set that Dos Rios project on the shelf. That is why we face a perilous future today, not knowing where the water is coming from to meet the second half of the expected yield of the State Water Project.

Then they passed the Wild Rivers Act, which did not preclude planning, but did preclude construction on the Eel until a later plan was reviewed. It did pretty much preclude planning and construction insofar as the state was concerned for diversion of additional waters out of the Trinity and the Klamath.

Warne: Now, the California Wild Rivers Act does not impede the Bureau of Reclamation or the Corps of Engineers. They have continued to work on the coast, though they haven't brought forth anything, and the bureau dropped the English Ridge, and the corps has had a devil of a time trying to get Warm Springs Dam going.

Chall: Is part of the problem the internal dissension among land owners and water users in those areas? I had a feeling that they couldn't agree, that some of them wanted projects built by one or another of the agencies for various reasons.

Warne: That's all resolved. Early, early days, perhaps, some of that. But the truth of it is, in my view, that we in the state of California hold the north coast as our colony. We have a colonial attitude toward it. We exploit their resources. We give them nothing back. We let those rivers wreak their havoc and do not develop them so the valleys can be protected and the waters used in assisting north coastal industry and development.

As a consequence, the people in the area react as colonial people are wont to do. They're opposed to everybody! They're opposed! I mean, you say, "Well, look here. The rivers just washed away in 1964 all these little towns in the flood." And they say, "That's all right. You stay out of here. We'll build the town right back in the same place." And they do. They build Weot right back in the same darn place. It's been washed out two or three times, and it'll be washed out again. No one is going to invest very much in Weot who comes from the outside. And the people there are assigned the roles of the deprived for all time to come.

They complain, "You're taking our jobs away when you set up the Redwood National Park." But they won't consent to the proposal to provide any other resource development up there that might substitute for the logging of the big redwood trees. I mean, you can't put in a power plant, develop some control on those rivers so they can safely use some of the bottomlands for agriculture.

No one's going to invest very much in those flood plains along the Eel or the Klamath or the Trinity, unless they're out of their minds, except after the rivers are controlled.

Chall: I see. Nothing's being done.

Warne: Nothing is being done. And it's fairly easy for anyone who is opposed to the growth or water resources development, for theoretical reasons, to go up there and excite all kinds of opposition. Who do you think financed those loggers who took their trucks all the way back to Washington to oppose the Redwood Park? They didn't do that out of their own pockets.

Chall: Who did it? The lumber companies?

Warne: Well, I don't know who did it. But if you find the ones who did, I'll tell you who is opposed to the water resources development up there.

Chall: The same group, is it?

Warne: They come from the same stem. The exploitation of the region and its resources is at the bottom of it. The people of the region share with the people of Appalachia the same history of deprivation and below-average incomes.

Chall: I guess it was one of your speeches later, just about the time you left, which indicated that there was so much dissension up there that none of these agencies knew which one should be building on which river or which part of it.

I wonder how much of that stemmed not just from the opposition that you mentioned, but from the whole problem of the 160-acre limit if the Bureau of Reclamation were to develop a project. If it's a portion of a river, isn't it still a problem? Wouldn't you just be going through that battle all over again?

Warne: The 160-acre law wouldn't worry anybody on the north coast.

Chall: I see. There's no land there.

Warne: There are no big irrigation projects over there, and there are not about to be. The 160-acre law comes into play when you get into an area like the San Joaquin Valley. They're all in favor of the water development in the San Joaquin Valley. They just don't want to have to take the 160-acre law along with the subsidized water. So that wasn't a factor in the north coast. There isn't that much farming and very few large ranches that conceivably could be irrigated.

I have always thought that the corps and the bureau at times--one impeded the other, and quite deliberately. I don't think that the Department of Water Resources engaged in that kind of battling with other agencies very often. But I always tried to get the agencies, federal and state, together. I think I was the moving spirit in setting up the four-agency operation. And we put an awful lot of emphasis on that endeavor when I was in the department.

I found that there was a whole lot less opportunity for one of the federal agencies to frustrate the other, or us, if we got together from time to time and laid the cards out on the table where everybody could see who was playing what kind of a game.

Warne: Our water commission, under the authority it had been given, had the responsibility of passing on the compliance of all the water resources developments, no matter by whom proposed, with the California Water Plan. The commission did a pretty good job of coordinating activities once the planning had advanced to the point of producing a project plan. What we tried to do in the four agencies was to get the planning all at the same level, based on the same objectives, and then produce compatible proposed projects that could be cleared by the water commission.

Perhaps I should explain how the state and federal projects are meshed.

The federal Central Valley Project, as developed by the Bureau of Reclamation, has been an extensible project; that is, new units, after congressional approval, could be added to the basic facilities that made up the project as it was originally planned by the state and as it was taken over by the Bureau of Reclamation. These new elements have been incorporated into the CVP financing and repayment plans and the expanded and expanding project has been operated as a unit. When additional water rights have been sought by the bureau from the state they have gone to the CVP and the waters are managed by the bureau through allocations to the various units and water users who contract for service from the CVP.

The state of California has consistently maintained its authorization of the Central Valley Project and retained on its books the Central Valley Project Act, now more than forty years old. Provisions of that act were relied upon by the Department of Water Resources for construction, contracting, and operating authority for the State Water Project, since the Burns-Porter Act did not repeat elements of the existing enactment.

As the Bureau of Reclamation added new units to the original Central Valley Project, the California legislature consistently added these same units to the California authorization of the Central Valley Project. The state has a legally constructed Central Valley Project that is identical with the federal Central Valley Project.

The State Water Project was conceived as an extensible project, too, just as the federal Central Valley Project was. The Burns-Porter Act simply authorized the initial facilities to be constructed from the bond funding. Not only were some of the initial facilities, such as the additional conservation facilities north of the Delta, left specifically vague, though authorized and funded through the offsetting of the bonds, but later elements of the State Water Project were anticipated. The funding of the construction, however, was not provided for later elements. The revenue bonding procedures

Warne: of the State Central Valley Project Act, however, were available to the Department of Water Resources for added units. Some power plants are being added that were not specifically included among the initial facilities through the use of this authority at this time. The Burns-Porter Act clearly authorizes the construction of power facilities to meet the requirements of the project's pumps and the revenue-producing capacities of power plants, even when their outputs are sold to project water service contractors through the method of paying for the transportation of their water entitlements, are easily recognized and form sound bases for the issuance of revenue bonds.

So, the units that the Bureau of Reclamation developed for incorporation into the Central Valley Project were eventually added by the legislature to the California Central Valley Project. The same was true of Corps of Engineers projects that were designed to become parts of the reclamation program in the Central Valley. Not all bureau and corps projects in California are incorporated into the CVP. They have different authorizations and stand on separate bottoms.

Chall: What about the augmentation, then, of the Central Valley Project? Did you have much to do with these problems that I guess Kuchel was having--or whoever was Senator at any one time--or Bizz Johnson, with respect to the Auburn Dam, the Folsom Canal?

Warne: Folsom South?

Chall: Yes. That just seemed to take many, many years of putting it into the hopper and getting nowhere. Was that because of opposition from Senator Hayden? Or was there other opposition to that which took it so long to get finally authorized?

Warne: I don't know. The Folsom South project hasn't been build yet, you know. Just the first part of the canal to serve the Rancho Seco nuclear power plant of the Sacramento Municipal Utility District.

Chall: Have they not built part of the Auburn Dam?

Warne: They've built some of the foundation. The bureau has spent about \$157 million up there, but they haven't got the dam designed yet now to meet the...The state has taken the part of the environmentalists with regard to Auburn Dam. The state more recently-- this doesn't really go back to my time--has taken a pretty adamant position with regard to the bureau's early refusal to participate in meeting the water quality criteria for the Delta and the lower American River. After adopting the New Melones Dam as as a part of the state's authorized Central Valley Project, official opposition to operation of the project has been generated by Governor Jerry Brown.

Warne: Only in the last few months has the Department of Interior come around a little bit. Secretary Andrus has said the CVP will provide some water to meet the outflow requirements established by the State Water Resources Control Board's Delta decision #1379. Just between you and me, I think the feds are playing a very tough political game as they recede from their previous position. They may be trying to stir up additional difficulties in the state for our own state administration, through some of the decisions that they're making with regard to the distributions of water out of the Central Valley Project.

This contest isn't over yet by a long way. I never approved of the bureau making a contract with the East Bay Municipal Water District, for example, to take water out of the Folsom South Canal. We offered the East Bay Municipal Water District a contract of water out of the State Water Project. East Bay MUD was one of the contractors that I hoped would contract with us. I mean, what the thunder, we built the canal right across their present pipeline.

I thought the bureau was a little difficult. I thought it tried to make a better financial deal for EBMUD, just in the hopes of embarrassing the department.

Chall: That just sounds like a terrible game for water agencies to be playing.

Warne: I think the East Bay Municipal also wanted to have a peripheral canal. They did not want to take state water because it would have to pass through the Delta. They wanted to get their water without passing through the Delta. Their contract with the bureau for American River water would give them their own peripheral canal and they could join the recalcitrants in their service area in opposition to a peripheral canal for the State Water Project—fatuous, unconscionable, and abetted by the bureau.

Where do you suppose the opposition to the Peripheral Canal is coming from?

Chall: I know part of it's coming from the Delta.

Warne: Most of it's coming out of areas associated closely with the East Bay Municipal Water District and the city of San Francisco. Most of it. In other words, here are two outfits, each having its own peripheral canal and one of them wanting an additional peripheral canal, opposing the Peripheral Canal of the State Water Project designed to keep the waters pure for other water users. They have gone even to the point of refusing on the part of the East Bay Municipal Water District to take state water at a more convenient and less costly place than the Folsom South Canal.

Warne: Only you people down there in these benighted places like Hayward would agree to anything like that.

Chall: [laughs] How little did we know what was going on in the East Bay Municipal Water District, until recently. It's been just as closed as can be.

Warne: I had a contract under negotiation with the City of Hayward for water from the South Bay Aqueduct. San Francisco came in there and persuaded them to take water out of the Hetch Hetchy system. Now, on what basis? On the basis that it would be of higher quality than that which had to come through the State Water Project and be transported through the Delta. And they charged Hayward a terrific price. And when they had the drought, they didn't have the needed water, either. The whole Hetch Hetchy system was under severe stress. I mean, it would pay a bit for everybody to consider what they have been doing. They're all playing politics.

Chall: What do you think, in the past, held up the Auburn Dam? I think Senator Kuchel said at one point that he'd been putting in a bill for five or six years. I don't know whether I have that note at hand now.

In addition, there's that east--what do they call it?

Warne: East Side Canal. A proposed canal down the east side of the San Joaquin Valley.

Chall: Which doesn't seem to be anything yet but a dotted line.

Warne: What held up the Auburn for quite a while was that it was tied in with the East Side Canal. The East Side Canal was a proposal to take waters from the American River on the Delta and move them from one watershed to another south to augment the waters all the way down, again, to Bakersfield, through the system of exchanges.

Chall: What held that up? Was it just the cost? Was Congress holding that back or were some of the local water people holding it back?

Warne: I think as much as anything else what held it back has been the feeling that the agriculturists are asking too much.

Chall: That was true, then, back in '63, '64, '65, when these bills were attempting to get through Congress?

Warne: Very costly. And they wanted to get the vast transfer project under the Reclamation Act where the subsidy is about fifty percent. No interest is charged on the capital investment. Lots of people in

Warne: the East, at least, and some out here too, think that agriculture ought to bear the full costs in a developed area, especially in view of water-user opposition to other provisions of the reclamation law.

The bureau pretty well abandoned the East Side Canal and is going for a cross-valley canal, conduit, which will use the state facilities and the federal facilities down as far as San Luis Dam and take a canal across to Fresno and on south from there.

Chall: That'll be Bureau of Reclamation water?

Warne: They're talking about it--fed through the state project facilities.

Chall: That's that old partnership again.

Warne: I don't object to partnerships, but I do object to yielding the jurisdiction because I think that the state alone has the interest in fair distribution of its own state waters among all of the contesting uses and potential users. The Bureau of Reclamation never would have proposed a state water project; the bureau may propose a lot of other things, but never one that would meet the needs of the whole state. And neither would the corps. They are project-oriented, with a further restriction that gives functional dominance to the uses of their facilities--irrigation on the part of the bureau, flood control on the part of the corps.

So, if you're going to take care of the state's problems, then it's necessary for the state itself to do it. I think, as a part of the price that is charged these federal and other agencies for participating, we ought to and must insist that whatever they do will conform to a comprehensive state plan.

That's been our state stance at least since we adopted the State Water Project plan, which was in 1957, I guess--no, in '59.

The Pacific Southwest Water Plan and the Colorado River

Chall: I don't know if we're going to have time now to go very far into it, but let's discuss the Pacific Southwest Water Plan. Now, as I understand it, that was first, as they say, unveiled by Stewart Udall in 1963 and you were given ninety days to respond to this plan. I think those must have been very hectic days. That was the one that required--I think it was--that 1,200,000 acre-feet of water would go from the California water plan to Arizona, among other things. Do you recall that?

Warne: Oh, I recall it, but I didn't take it very seriously then and I don't yet. That Colorado River controversy boiled up into a steaming issue, and Udall's plan to take Northern California water into Nevada and Arizona and the NAWAPA plan to go into Canada with an aqueduct got a lot of attention for a while. Would you believe it, almost nothing has come of it, and the California Colorado River Board, our watchdog agency, is rather complacent about it in 1979.

Chall: Why do you think it was proposed? Eventually Mr. Udall said, "Well, I didn't really propose it expecting you to accept it, but just to come up with another idea." But I still wonder, with Mr. [James] Carr there--in his office--and everybody, particularly Mr. Carr, knowing California well--why they would have even tried it, unless it was a way to indicate to the Arizona people that we were trying something with California.

It was withdrawn very quickly and modified many times.

Warne: This was an era, you know, when fantastic flights of fancy were being engaged in, and it wasn't above the Bureau of Reclamation to try to outdo the state Department of Water Resources, or it wasn't above Parsons [Ralph M. Parsons Co.] to come up with NAWAPA [North America Water and Power Alliance] to outdo everybody in the country. With the MWD and the city of Los Angeles crying "calamity" over the Arizona v. California case, a considerable credence was given to outrageous flights of fancy.

Chall: Did anybody take NAWAPA seriously?

Warne: Well, you'd be surprised how many people took it seriously--

Chall: It was a great plan!

Warne: --and are still talking about it. You can't estimate how much damage it's done to the more rational planning of the water resources development not only in California but throughout the West. During the 1977 drought, Congressman Rhodes of Arizona came over to San Francisco and in a speech tried to revive NAWAPA.

Chall: What about the Pacific Southwest Water Plan?

Warne: I'm sure it hurried along the legislature's act of setting up the wild rivers on the north coast, because that's where they were to get the water to run up through Death Valley and through the chain of aqueducts and lakes to Lake Mead on the Colorado River. We didn't really take that too seriously. Perhaps at first it did occupy a lot of our time. The water establishment in California was boiling in 1963 and 1964.

Chall: You did have to respond, of course, within the ninety days.

Warne: I'm not sure what our response was--establishment or--

Chall: The commission held a few hearings and the Metropolitan Water District had quite a number and in their material it's all laid out why they don't accept it--one, two, three, four, five, six. So that material is available, but I was just curious about the notion, would it fly and what did they anticipate? Of course, it set off a spate of bills later--from 1964 until at least 1968--perhaps longer.

Warne: I don't know why they did that. Probably Jim Carr had a hand in it. I'm not sure. I remember Pafford presenting that thing, that series of lines drawn on a map. And that's all it was, you know--clear across the...

Chall: Who presenting it?

Warne: Pafford, Bob Pafford, who was then the regional director in Sacramento of the Bureau of Reclamation, Robert J. Pafford. I'd almost forgotten that.

Chall: At the same time and gradually, these bills for the Central Arizona Project, the Southwest Water Project, came together with the whole matter of state water rights, which went back to some court cases in 1960 and before, having to do with federal water rights. I think the major one was the Pelton Dam case. Do you recall that?

Warne: Yes.

Chall: Without going into every single bill, I'm wondering what you were doing. First of all, your final report claims that the Department of Water Resources urged Pat Brown to cooperate with the western states on this whole matter of working the problems out with Arizona. I think that's when you established the Western States Water Council as a way of cooperating rather than fighting over it.*

*Progress of the Department of Water Resources, 1961-1966, page 53.

Warne: That's right. We did do that. The governor suggested the formation of the Western States Water Council to the Western States Governors' Conference. With Washington, and Oregon, and even Montana scared stiff of NAWAPA and suggestions of a Columbia River Diversion, the Western States Water Council was virtually paralyzed from the start. The governor asked me how we were doing after a year or so, and I told him that our finest achievement was our continued existence.

Chall: About the only time they say California buried the hatchet with Arizona and got these bills through is when instead of arguing about how much water California should get from the Colorado River, the states began to look to the Columbia River. [laughs]

Warne: You couldn't bury the hatchet as long as that court case was extant, though I was probably the only Californian--almost literally, the only Californian to whom Senator Hayden would speak on a water issue because of my long association with him while I was in Washington. He knew that I always felt that California had limited herself to the amount of water that she was going to take out of the Colorado River and that eventually Arizona should be able to take the amount that had been allotted to her.

So I was quite quiet in all of these contentions that we get an allotment greater than 4.4 million acre-feet out of the Colorado River. I was one of the leaders in trying to develop a common program. We really thought we might get to the Columbia River to augment the flow of the Colorado. The attitude today is that it is not going to be necessary in the near future, and both the economics and environmental considerations are against it in 1979. Even Scoop Jackson has quieted down, because the bureau's planning has virtually ceased to consider diversions into the Colorado River Basin from any source.

Actually, this thing that Udall brought in about taking water out of the north coastal streams was an effort to meet the objection that [Senator Henry] Jackson had made to the westwide water plan.

Senator Jackson got a provision in the authorization for the development of the westwide water plan that no diversion could be made into the Colorado River from any area outside of the region and no planning could be done that might lead to such diversions for a ten-year period. The north coast of California, by reason of the nature of the Colorado River Development Act, is in the Colorado River Basin, or at least California is a part of the basin; therefore, under Jackson's amendment, one could divert water from other areas of California into the Colorado.

Chall: But not the Columbia River.

Warne: But not the Columbia River, since it was not in any way affected directly by the Colorado River Basin. That was one of the reasons that Udall brought in that silly plan. I surmise that Arizona, having felt that California had been trying to raid its Colorado River sources, considered it a sort of poetic justice to suggest that California sources contribute not only to other regions of California, but also to other Lower Colorado River Basin states. I think he wanted to shock California into thinking a little more seriously about what it was getting itself into in its fight against Arizona. You know Udall was from Arizona.

Chall: This plan included originally building dams on Marble and Bridge Canyons.

Warne: I have a beautiful picture I made of Marble Canyon dam site while we were really planning to build it when I was in the Interior Department. We even went down. I took the principal officers of--

Chall: It hasn't been built?

Warne: [emphatically] No. It's been outlawed now.

Glen Canyon's been built. I went to the site with Mike [Michael W.] Straus when he was commissioner of reclamation and I was assistant secretary for water and power development. Glen Canyon Dam provides the second most important reservoir on the Colorado River, following Lake Mead, which was created by Hoover Dam. It is in place now. When I was director of water resources, I took the California Water Commission to Page, Arizona, for an inspection of Glen Canyon Dam and the reservoir, which is named Lake Powell after John Wesley Powell, who made the first run through the canyons of the Colorado River and, in fact, named Glen Canyon on his first trip from Green River to Las Vegas Wash. Way back then plans were being considered for the construction of a dam in Marble Canyon and a dam at Bridge Canyon, which is upstream a few miles from the headwaters of Lake Mead. These two dams would have been more important for added power generation than for water conservation storage. Udall's plan included both of these. Marble Canyon has been incorporated into Grand Canyon National Park, which is extended downstream as well so as to make the construction of Bridge Canyon Dam unlikely. Senator Hayden used to include Bridge Canyon Dam as a feature of his Central Arizona Project, but he had to take it out finally in order to get his project authorization through the Congress. But when I was director of water resources, I took several of the ranking officials of the Department of Water Resources down to visit Bridge Canyon. We were all in favor of the Bridge. I still am. But, of course, it's now gone too.

Chall: What was accomplished by the Western States Water Council? You were the chairman of the California delegation.

Warne: It was useful in that it provided the opportunity for those of us from California both from the north and the south and from the executive departments and the legislature to get together and jointly consider California problems in the Colorado River Basin. That was important. We made very little progress with the region as a whole because the northwestern states were jealous and desperately afraid of California. We were not able to reassure them in the time I had.

[In response to the interviewer's written-in questions and a request for further information on some of the water issues which there had not been time enough to cover during the interview, Mr. Warne, after reviewing the transcript, wrote out the following material.]

Chall: We had run out of time, tape, and, I think, energy while we were discussing the issue of negotiations relating to the Pacific Southwest Water Plan. Although you claimed not to have taken it seriously, I noticed as I was going through Governor Brown's papers in The Bancroft Library that you and many others in the administration, both in California and Washington, were actively involved. It wasn't resolved until after Pat Brown left office, of course, but I would appreciate your providing some additional information about your activities.

Warne: Well, I may have answered your earlier question as a result of my making a too narrow interpretation of what you referred to as the "Pacific Southwest Water Plan." I at first thought of the series of lines on the map which Pafford had displayed. The plan was not supported very well by any studies or even any discussions. When Secretary Udall subsequently unveiled it, despite the flurry of activity that it generated and the plethora of reactions that it drew from California agencies and water interests, even despite my involvement in its review, I thought it was half-baked and not much more than a ploy.

It seems to me now, however, after reading some of this material that you have dug out of the library and files, you are really asking about the whole Colorado River controversy, and I certainly took that seriously enough, both before and after the Supreme Court decided Arizona v. California. I think from some of our earlier discussions it is clear that I was deeply involved in Colorado River Basin matters virtually since 1935 when I joined the staff of the Bureau of Reclamation. You know, I grew up on my father's farm in

Warne: the Imperial Valley and since I was old enough--about ten years old--to go with my father to my first public meeting in the school house at Alamo--it was a two-room country school and I attended it for five years--I was interested in and excited by the Boulder Canyon Project. I knew about dry years, because during August our ditches were almost empty, and I knew about floods on the Colorado River, because our neighbors still talked about the 1905-07 flood when the river turned into the valley and formed the Salton Sea. My father did not go to the valley until 1913, so none of my family had experienced that flood personally. Each year, however, when the river rose with the snow-melt flood in June, there was anxiety that it would break into the valley again.

At that first meeting that I attended, Mark Rose, an active water leader in our part of the valley, made a speech which thrilled me. He said we had to have a dam in Boulder Canyon and if we all got together the Congress would authorize it and the bureau would build it. I never forgot that.

When I left the Associated Press in Washington, D.C. and joined the Bureau of Reclamation, the bureau was just finishing the construction of Boulder Dam, which was what we still called it at that time. Dr. Elwood Mead, who was commissioner of reclamation, took me with him on a tour of projects in the West during the summer of 1935. We visited the Imperial Valley and Yuma, Arizona, and spent a few days at Boulder City, Nevada, inspecting the great dam, which had just been topped-out. When we got back to Washington, Dr. Mead asked me to prepare a memorandum about the dam so that he could send it over to the White House. President Roosevelt was going out in late September to dedicate Boulder Dam. I wrote the memorandum, and Dr. Mead turned it back to me. "Let's put it in the form of a draft of speech," he said, "It might be more useful to him." I did.

You can imagine my surprise--and delight--when we listened to the dedication speech on the radio in the back of the file room in the office in Washington. More than half of the president's speech seemed to be word for word what I had set down. I read that speech in a compilation of FDR's important pronouncements again a few years ago, and I still got a thrill out of it. It did not seem to me, however, on this rereading after several decades had passed, that my memorandum made up quite half of it. The president had put a lot of power policy in the speech that I was not capable of writing at that time.

For sixteen years in the Interior Department, quite a lot of my work revolved around the Colorado River, the basin, water and power matters stemming from the Boulder Canyon Project, comprehensive planning for the further development of the waters, the 1944 treaty with Mexico, et cetera.

Warne: When I became California director of water resources in 1961, one of the first issues I faced was the uneasy relationship of the department with the California Colorado River Board. I felt, with some justification, I think, that I had special qualifications to deal with Colorado River matters. I found that although the department had a Southern District headquartered in Los Angeles, it had virtually no contact with the Colorado River Board, which was set up by law to represent California before the Department of the Interior and elsewhere, including the California legislature, on Colorado River matters. The board was composed of five representatives of Colorado River water-user agencies, appointed by the governor but only after nomination by their own agencies. It was Joe Jensen's domain. I remember that Munson "Mike" Dowd of the Imperial Irrigation District was serving on the board. He was a friend of mine through long previous association.

Several times both before and since I became director, abortive efforts have been made to eliminate the Colorado River Board and to put its functions in the Department of Water Resources, to place the board under the department, move it into the Resources Agency and otherwise to bring the administration of California's Colorado River affairs into closer coordination with the handling of other water and resource matters of the state. When Jerry Brown became governor, he was going to eliminate the Colorado River Board; he succeeded only in adding three public members to the board, but that was the greatest incursion made on the citadel of its power in something like fifty years.

Because of my previous relationships with Colorado River matters, I think that the Colorado River Board expected me to move in on it when I became director of water resources. Governor Brown looked to me on all water resources matters, and we talked about our isolation from the Colorado River, but he did not want a political fight that might alienate the big Southern California water agencies. We needed the support of the Met, San Diego, and Los Angeles in our running battles with some of the northern legislators over the State Water Project. I always prided myself on the fact--I believe it to have been a fact--that as an administrator I could, on entering a new job, work out administrative problems within the existing organizational structure on an amicable basis. I told the governor I thought I could work with the Colorado River Board.

Very early, among the first things I did after becoming director, I went to Los Angeles and met with the Colorado River Board. I remember that Ray Rummonds, of the Coachella Valley County Water District, was there. We had not met often before that time, but we got on well and became close friends. We are warm friends today.

Warne: Dowd was there. Joe Jensen was there. I think Sam Nelson of the City of Los Angeles, the director of the Department of Water and Power, was there. I am not sure now who represented San Diego. The staff was present. I began by assuring the board that I had no intention of attempting to take over it or its functions, but intended to work with and through the board. The reticence that was evident at the start vanished and we got along fine.

Afterward, when Joe Friedkin (J.F. Friedkin, chief engineer of the U.S. Boundary and Water Commission, headquartered in El Paso, Texas) called on the governors of the seven Colorado River Basin states to reactivate the Committee of Fourteen, two representatives from each state, to work with him in the administration of the Boundary Commission's minute, I believe it was Minute 242, with respect to supplying Colorado River water to Mexico, I suggested that Governor Brown appoint Dowd and me as the California members. He did. I think that this was the first time that a state director got equal billing with a member of the Colorado River Board on any matter relating to Colorado River water problems. There had been a Committee of Fourteen way back in 1922 when Herbert Hoover was chairman of the Colorado River Commission. The commission suggested the original seven state compact that was to lead to the construction of the dam that eventually was named for Hoover, by that time an ex-president, in recognition of his role in the settlement of the Upper and Lower Basin controversy. The Committee of Fourteen had gone into eclipse and finally fell into disuse after the project was operating.

In any event, Mike and I attended the first meeting of the reconstituted Committee of Fourteen in the back yard of a member's house in Yuma one extremely hot summer night. I don't recall that I attended many other meetings, since I delegated to Wesley Steiner the task of handling Colorado River matters within the department, which he did very well. That first meeting came soon after the riots in Mexicali protesting the salinity of the water that we were delivering under the 1944 treaty. Well, this has been by way of background, explanation, really, of my approach to the Pacific Southwest Water Plan.

By the way, I do want to add this--that Northcutt Ely made the principal California argument before the Supreme Court in Arizona v. California and it was one of the most masterful presentations that I have ever heard. He had the details of the entire history of the river, its development, and the controversies over its waters at his finger tips and he provided them extemporaneously from memory clearly and understandably in response to questions from the bench. I was most impressed. I was familiar with most

Warne: of the background. It was so complex that I would not have thought that anyone could achieve such ease of command of all of the details. I hardly expected that California would win the case, since it seemed to me that the self-limitation act, which was a requirement of the Congress before it would authorize Boulder Dam in the absence of the signature of Arizona on the seven state compact, pretty well precluded California from perfecting a right to divert more than 4,400,000 acre-feet of Colorado River water per year. But when the decision came down and was adverse to California's claim to a larger amount, the result was not because Mike Ely's argument had been deficient. It was an adjustment back to the original balance between Arizona and California.

Changing Views of Water Needs and Uses of the Colorado River

Warne: Everyone, as I remember it, objected to Udall's plan to augment the Colorado River by transporting water from the north coastal streams of California to Lake Mead. This was designed to guarantee sufficient water for both California water users and Arizona water users, including those in Phoenix and Tucson who were to be served by Senator Hayden's proposed Central Arizona Project.

It was clear by 1964 that the waters of the Colorado River had been overcommitted by the Seven State Colorado River Compact of 1922 and the 1944 Mexican Water Treaty. Hayden's project was designed to divert the full remaining Arizona entitlement as adjudicated by the Supreme Court. This meant that not only was California to be limited to 4.4 million acre-feet of Colorado River water per annum once the Central Arizona Project was operating, but also that subject to allocation by the secretary of the interior, in dry years when the Colorado River did not meet all of the legitimate demands made upon it, California water users could be cut back even more.

The MWD, infuriated by the loss of right to waters it had been using in excess of what the court ruled was the normal entitlement, developed strong positions for a declaration in any Central Arizona Project authorization that if deficiencies developed they would be borne by Arizona water users and that California's 4.4 million acre-feet would be guaranteed in perpetuity.

Hydrologic studies, based on estimates that the Central Arizona Project would not become operative for ten or twelve years, indicated that with water already in storage, deficiencies were not going to arise, even with the CAP operating and calamitous droughts descending

Warne: on the Colorado River Basin, for another twenty-five years, at least. It is, by the way, interesting to note that in 1979 the Central Arizona Project, authorized in 1968, is not expected to begin operating until 1985, some twenty-one years after the alarm was sounded, and that in the meantime fifty-two million acre-feet of active storage has been filled in reservoirs in the Colorado River Basin--principally Lake Mead and Lake Powell. There is only space for another four million acre-feet of water to be stored. After that, water will have to be spilled and wasted downstream into the Gulf of California. With wise management of this storage by the secretary of the interior, who in the past through one administration after another has been conceded to have done a good job on the Colorado River, California water experts see very little danger of a deficiency ever arising in the future, at least not for a very long time, and the danger is no longer calculated.

The insistence of the MWD on protection of California's 4.4 million acre-feet--a fall-back position from its original contention that it should be allowed to use the full capacity of its Colorado River Aqueduct--was for a time a sticking point that held up Hayden's bill authorizing the Central Arizona Project. Eventually, Arizona water users who already had perfected diversions from the Colorado River joined California and a compromise was worked out. The Central Arizona Project, as finally authorized in 1968, will bear the brunt of deficiencies in the Lower Colorado River Basin, and prior Arizona diverters and California's 4.4 million acre-feet will stand together, not to be diminished until the CAP is dry, and then proportionately.

If the Upper Colorado River Basin states had developed uses of their allotted waters as rapidly as once it was expected that they would, then the huge reserve storage that can only be used in the Lower Basin would not have swollen to such magnitude.

Efforts to develop plans for interbasin transfer projects to supplement the flow of the Colorado River have waned in the passing years. Several factors are responsible. One, the MWD has accepted the fact that eventually it will have to reduce its annual diversions from the Colorado River so that they will fit under the 4.4 million acre-foot California limitation. Two, the timely construction of Glen Canyon Dam and the build-up of a huge stored-water reserve has eased the anxiety over deficiencies occurring in the Lower Basin. And, three, the Bureau of Reclamation and the United States Forest Service appear to be on the verge of technological breakthroughs that will enable them to increase the flows of the Colorado River from within the basin.

Warne: The bureau's Project Skywater using cloudseeding to increase precipitation appears ready for a practical demonstration project in the San Juan Basin in 1980. The Forest Service has conducted experiments and contends that it can materially reduce the losses to evaporation of snow and rain over the mountainous forests of the Upper Basin by the introduction of practical forest practices and cutting programs that will increase the runoff to the streams without detriment to the trees and brush cover.

In the days when we were scurrying around trying to find ways to improve Udall's Pacific Southwest Water Plan, no one would stand still long enough to consider the possibilities that have evolved and may in the future evolve further to make interbasin transfers unnecessary.

I thought when I was director of water resources that a transfer of water from the Columbia River Basin to the Colorado River Basin would be practical and useful and that the transfer could be made without detriment to the states of Washington and Oregon. A project to effect such a transfer would have to be built by the federal government. At that time some Southern Californians were advocating that they build an aqueduct to the Snake or Columbia River. It has always been obvious to me that no state can so invade another. Only with the powers of the federal government can such regional projects be worked out. The history of the development of the Colorado River fully demonstrates this.

We thought it was a disaster when Scoop Jackson had written into the authorization of the development of the westwide water plan a provision that for ten years no consideration could be given by the Bureau of Reclamation to proposals to transfer water into the Colorado River Basin from streams outside the basin states.

The bureau's plan, as it evolved, was of little interest, and the Office of Management and Budget finally cut out the annual requests for appropriations. No one seemed to care very much. Myron Holburt, chief engineer of the Colorado River Board, recently reminded me that that board had passed a resolution declaring it was no longer interested in going to the Columbia River for more water. That was the Southern California Colorado River water users speaking. Shades of Joe Jensen. What a difference fifteen years have made.

Chall: Would the suggestion that keeps bobbing up that it would be cheaper for MWD to acquire some of the water allocated to Imperial Valley farmers, when it needs more than can be supplied to it from within the 4.4 million acre-foot allocation to California--cheaper than building new water diversion projects--would that offer any practical solution?

Warne: That suggestion has been around a long time. Joe Jensen said something like that to me seventeen or eighteen years ago. I even saw that suggestion recently in a University of California paper that purported to summarize and evaluate California water history and programs.* The suggestion leaves me cold. Most of the time the source criticizes the city of Los Angeles for building an aqueduct to the Owens Valley in 1913 and taking water to the San Fernando Valley and the coastal plain. Owens Valley was undeveloped at that time. The diversion of its waters destroyed nothing, only permitted and fostered growth and development in a different region, the environs of Los Angeles instead of those of Bishop and Independence. Efforts of the city of Los Angeles to increase the take from its properties in the Owens Valley are being resisted at this time. One gets the impression that the sympathies of a great many Californians are with the few people in the Owens Valley rather than with the millions in Los Angeles today.

All right. Now what would be the public reaction if the eleven million people who are served by the MWD should take the water away from one of the most productive agricultural areas of the state, the Imperial Valley? To force a reduction in the area farmed by irrigation in California with waters from the Colorado River to provide water for lawns and swimming pools in Beverly Hills would be a serious blow to the economy of the state as well as an invasion of the rights of the farmers and townspeople of the affected area.

There are still many unused waters in the state. The cost of their conservation and development should never be used in an attempt to justify raiding the water supplies of developed areas.

Chall: Wasn't that something like what MWD said when its diversions in the Colorado River Aqueduct were threatened to be cut back?

Warne: The situation was not the same. Met built the Colorado River Aqueduct deliberately to twice the size needed to carry her allotment of water under the California 4.4 million acre-foot allocation. Met has not lost her allotment; what she has lost is the right to use the excess capacity of the aqueduct when the excess waters are needed by other rightful users in the Lower Basin. The issue was focused by the Central Arizona Project. As a matter of fact, the

*Richard Walker and Michael Storper, "The California Water System: Another Round of Expansion?" Public Affairs Report, Bulletin of the Institute of Governmental Studies, (University of California, Berkeley, Vol. 20, No. 2, April 1979).

Warne: MWD has been diverting more than a million acre-feet of water a year from the Colorado River every one of the fifteen years since the Supreme Court decree became final. She will undoubtedly continue to take double her allotment until 1985 when the CAP begins operating. Nobody will object. The way storage has built up in the big Colorado River reservoirs, it may be a very long time indeed before the MWD suffers any curtailment, even after the CAP diverts water to Phoenix.

It may seem to you that I have justified the delay in the construction of the Peripheral Canal and the additional conservation facilities of the State Water Project. I really don't think so. The Peripheral Canal is seriously needed for proper management of the waters in the Delta. Even though the build-up of the use of the entitlement of the MWD to waters from the State Water Project should be slowed down by unexpected, continued availability of excess Colorado River water, the total of the entitlements of all water service contractors will shortly build up so that they exceed the capacity of the present facilities. The augmentation of the delivery capacity of the Peripheral Canal will be needed at that time. The Peripheral Canal will enable the State Water Project to deliver through the California aqueduct about 700,000 acre-feet per annum more water than can be delivered without its construction. That amount greatly exceeds the amount of excess water that MWD may continue to get from the Colorado River. In other words, the excess from the Colorado River will not offset the needs that are pressing for immediate construction of the Peripheral Canal.

Chall: We have discussed Senator Hayden's interest in the Colorado River and his key position in the Senate insofar as he could hold up California projects until he could get assurances for building the Central Arizona Project. Now, Congressman Wayne Aspinall came from Colorado. As an Upper Colorado River Basin representative, did he also have interests to protect which made it difficult for California water interests to get their projects through Congress?

Warne: Wayne was never a Hayden. Also, he had nothing that was being jeopardized in the Upper Colorado River Basin. We always helped with the development of Upper Basin storage dams. Aspinall had strong California members on his committee--Bizz Johnson, Craig Hosmer, others, too. Not so much during the time I was director, but later, I detected in Congressman Aspinall some generalized resentment of California. He revealed that he thought that California demanded and got too much of the resources development pie; that the less populous western states, of which Colorado was one, got too small a share to divide among them. He indicated also that he thought that comparatively the less populous states needed

Warne: more help than California did. This attitude probably was shared by other representatives from the other states, and it may operate against California programs now, even though Aspinall is gone. I don't think, however, that it has ever been a strong factor influencing congressional action on our programs.

Relationships Among State Staff Personnel

Chall: Did the differences of opinion between your staff and that of Attorney General Mosk regarding Colorado River entitlements affect working relationships in this and other areas, or are these kinds of differences just part of the job in a political position?

Warne: I have never been one to want to put a lot of effort into finely drawn, legalistic water right controversies. Goldberg and I thought that project solutions were best. If a project could settle the issue for both parties to a water rights dispute, the project was preferable to a lawsuit. Lawsuits over water rights never produce any new water; they simply divide up deficiencies or reward one side while depriving the other. Some of that philosophy was involved in differences of opinion with Mosk. Stan and I worked together fairly well on most occasions. He was ambitious and did not want to be submerged in Pat Brown's retinue. He had a right to stake out a personal position. I never at any time was interested in seeking higher office. I told the governor at the outset that I would never run for anything against any of his friends. In the political arena one must expect, however, that differences will appear between important figures. As an administrator, you just have to work around them.

Chall: How did Irvine Sprague serve the state during this period? Did he assist Pat Brown in negotiating with Senator Hayden, Governor Fannin, and others in the legislature to get the legislation moving forward? How did you work with him on other issues requiring federal approval--like the attempts to get Congress to fund the Peripheral Canal, or provide funds for other projects in California?

Warne: At the urging of Porter A. Towner, chief counsel of the Department of Water Resources, I engaged Timothy V.A. Dillon, a lawyer in Washington, to represent the department and help us with such things as prodding the federal agencies for action on matters of interest to the State Water Project, such as the flood control allocations. He was involved in arranging appearances before committees, et cetera. I took the matter of employment of Dillon up with Hale Champion, who was then director of finance, and with

Warne: the governor. Hale was somewhat reluctant to have me engage Dillon because, as I now remember it, he was about to send Sprague to Washington for general lobbying purposes. Towner and I pointed out the nature of our work, the many details to be watched, and the time that it would take to attend to all of them, and Hale and the governor agreed that we could make a contract with Dillon. We certainly did not use Dillon full time, but he took a big load off Sprague that we otherwise would have generated for him in connection with the State Water Project and the various reclamation matters that were cascading around Washington in those days.

I am not sure that Sprague ever liked our arrangement with Dillon. It meant that a number of lines of communications on matters of some importance did not go through his office. I developed the habit, however, of making Sprague's office my headquarters on my fairly numerous trips to Washington, and I never, I think, worked out of Dillon's office. In the last year or two of our administration, Irv grew more and more demanding that I work through him, which I found hard to do. I thought that he lacked background in our particular work. He was getting a much tighter control, however, of California's Washington representation. He once berated me for going directly to some congressional office without reporting to him, even though I used his office telephone to make the appointment, and when I brushed his complaint off, he got quite angry. I was never criticized by Champion or the governor, however, in connection with this instance--and I don't remember the details anymore--and I am sure that Sprague must have complained to them about it. I thought at the time that Resources Agency administrator Hugo Fisher might have had a separate negotiation going on through Sprague on the subject of my interest, unbeknownst to me. I considered this kind of situation unpleasant, but with large and complex organizations trying to operate in two environments, that of Sacramento and that of Washington, coordination difficulties can be expected.

Sprague was ambitious and he was a beginning empire builder in those days. I considered myself an old hand and operated with full confidence in my purposes. If Sprague helped Governor Brown with negotiations with Senator Hayden or Governor Fannin after he went to the United States Senate, it was not known to me. Sprague was never very deeply involved in the legislative work that grew out of the State Water Project, unless it originated in some other Sacramento office than mine. Finance might have had him look into some appropriation matters or something before the Bureau of the Budget that bore on our programs. Fisher worked with Sprague on many programs of the Resources Agency that arose from departments other than water resources, and he may have called upon Irv for some help on a water problem now and then, but I was not aware of it, if he did.

- Chall: Was there any specific strategy regarding who would see whom in Washington, or did you make decisions depending on what was needed at the particular time? And how were these decisions made?
- Warne: If a controversial issue is to be presented to the secretary of a department or a congressional committee, it is always best to have the governor do it, if he can spare the time and has sufficient interest. Next, the presentation should be made by the department head. For detailed negotiations and presentations before the regulatory commissions, one should send the best qualified technical expert. When I was in the department, many congressmen and Senators were well known to me personally because of my recent federal services. I felt I should go and at least introduce my staffer to them. Most of my old friends are gone now--Hayden, Engle, Mike Mansfield, Senator O'Mahoney, Hubert Humphrey--so it wouldn't be the same if I were entering on the work now.

The San Luis Reservoir and the Joint-Use Contract: The 160-Acre Issue

- Chall: We did not have time to discuss the controversy about the San Luis Reservoir. I noted that you were often in Washington on behalf of the state, trying to insure that the joint-use agreement would be approved by Secretary Udall without the application of the 160-acre limit to the state project.

Were you ever seriously worried that the agreement would retain the 160-acre clause because it was in the legislation which Congress had passed?

Why did it take Udall and his staff an entire year to make their decision? What concerns did they discuss with you when you went back to Washington to talk to them?

- Warne: I think that the 160-acre provision was always of greater concern to the Interior Department, especially its solicitors, than to us. Stu Udall assured me repeatedly that we would work out a San Luis joint-use agreement. Why it took his staff an entire year to do so, I do not know. The 160-acre provision undoubtedly was a part of it. Our insistence on state operation was a big factor. Settlement on the forty-five percent federal, fifty-five percent state sharing of the costs of the joint-use facilities also was involved. There were a lot of obscure technical details to be disposed of, as well. The bureau and the Department of Water Resources had to come to terms on

Warne: the design criteria to be applied. We might have fretted over the year then, but knowing how difficult it is to move a complex matter through a ponderous administrative machine, I do not think, looking back on it, that a year was so unreasonable. Anyway, the results were good.

Chall: You might go into some of the matters discussed in that memorandum you wrote to the governor on January 26, 1962, regarding water issues which you had written about in a letter to C. Thomas Bendorf--who was he? You sent a copy of that letter to Governor Brown covered by a memorandum dated January 26. There seemed to be a lot of activity in Washington at that time. Do you remember these?

Warne: Tom Bendorf was from the Department of Finance--the governor's lobbyist in Washington. Irvine Sprague followed him a couple of years later.

Yes, there was a lot of activity in Washington at that time. Pat Brown was there and we went together to Secretary Udall's office. He also spoke at a luncheon at the National Press Club. I have been a member of the NPC since my old newspaper days and I took Abbott Goldberg with me to the luncheon. That was the year that Pat was going to run for reelection. I don't think that Nixon had come out against him that early. Pat made a very good appearance before the club. He was always good at all sorts of meetings and conferences in Washington. I did not accompany him to most of his meetings, however, for I was working my own side of the street on such matters as the flood control allocation by the Corps of Engineers on Oroville Dam, the hearing before the Supreme Court on Arizona v. California, which Goldberg and I attended, the proposed Pacific Northwest-Pacific Southwest Power Intertie, the joint agreement on the San Luis Unit, Auburn Dam, the Central Arizona Project, et cetera, et cetera.

I mentioned that Governor Brown and I had signed with Pat Dugan, of the Bureau of Reclamation, the joint agreement for the cooperative construction of the San Luis Dam, forebay, and 101 miles of the California Aqueduct, which would become joint-use facilities of the state and the bureau. That was in San Francisco on December 30, 1961. This agreement called for the state to pay fifty-five percent of the cost of the construction, which was to be performed by the Bureau of Reclamation, that representing our estimate of the proportion of our use of the facilities by the state of California. The contract also called for the bureau to turn the joint-use facilities over to the State Water Project for operation, once the construction was completed. This was the most controversial and toughest provision of the contract, as I remember it. The bureau was reluctant to have the state operating a part of its Central Valley Project. We

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STATE OF CALIFORNIA
SACRAMENTO

Interdepartmental Communication

Honorable Edmund G. Brown
Governor of California
State Capitol
Sacramento, California

Date: January 26, 1962

File No.

To:

From: Director of Water Resources

Subject: Report on trip to Washington
January 7 - 11, 1962

208 100

JAN 29 11 4 05

I have reviewed for Mr. Tom Bendorf in a letter, a copy of which is attached, the present status of important water resource items that are of critical interest to the State of California and are presently pending in Washington. This letter constitutes my report on the trip to Washington.

In addition to work on the items indicated, I attended your excellent luncheon at the Press Club and was greatly encouraged by the reception you were given there. I also attended the opening hearing and other sessions of the Supreme Court hearing of oral arguments on Arizona v. California.

There were many representatives of California water interests in Washington during this period, including 14 Directors of the Metropolitan Water District of Southern California. Mr. Goldberg, who accompanied me, and I met with virtually all of them on several occasions and assisted in the presentation of several matters to members of the California and other congressional delegations.

In our conference with Secretary Udall, the Pacific Northwest-Pacific Southwest Power Intertie was discussed. I have oriented the staff of the Department of Water Resources in accordance with your remarks to the press after that conference. We are endeavoring to follow up with representatives of the municipal utilities in California and the Department of the Interior in the preparation of legislation to be proposed to the Congress. In this latter matter, Mr. Ken Davis, of the SMUD, is taking the lead and is working closely with Under Secretary Carr.



William E. Warne
Director

Attach.

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EDMUND G. BROWN
GOVERNOR OF
CALIFORNIA

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WILLIAM E. WRIGHT
Chief Security Director

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WILLIAM E. WRIGHT
Chief Security Director



THE RESOURCES AGENCY OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

1120 N STREET, SACRAMENTO

January 25, 1962

Mr. C. Thomas Bancroft
Room 714
1725 "K" Street, NW
Washington, D. C.

Dear Tom:

This is a brief progress report on the situation as I know it of our State Water Project in relation to the matters before the Federal Government.

SAN LUIS UNIT

The President's budget calls for the appropriation of about \$13 million for the Bureau of Reclamation share of construction in the forthcoming fiscal year of the San Luis Unit. The State is prepared to put up its necessary share. The Bureau of Reclamation now has preconstruction money and the State has advanced and is now continuing to advance preconstruction moneys to the Bureau for the purpose of making the necessary plans and drawing specifications. The Bureau of Reclamation has \$500,000 in construction funds that were appropriated by a special amendment to the Appropriation Act handled by Senator Engle last year.

No construction can be started on the San Luis Project, under the terms of the law authorizing the unit for construction by the Federal Government, until the San Luis Project agreement between the State of California and the Department of Interior has been before the House and Senate Interior and Insular Affairs Committees and neither of them has disapproved it during a period of 90 days when the Congress is in session.

This joint agreement, a copy of which is attached, was completed by Governor Brown and me with Pat Dujan, of the Bureau of Reclamation, in San Francisco on December 30, 1961. Secretary Udall sent it to the Congress and it has been pending before the two committees since the opening day of the present session. Presumably, if there are no adjournments longer than 3 days, the 90-day period will terminate about April 10. We have urged the Bureau of Reclamation to proceed to construction as soon thereafter as possible.

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While in Washington a couple of weeks ago, I talked with Chairman Wayne Aspinall of the House Interior and Insular Affairs Committee and he told me he favored the contract that the Secretary had sent to his committee. He said also that he did not see any occasion for his committee to hold any hearings with regard to the contract. He said he did not anticipate any move or at least any successful effort to get a resolution through his committee disapproving this contract. He asked whether we wanted a resolution approving the contract and I said that although this might shorten the waiting period, we would be satisfied to let it remain quiet through the 90 days.

I did not see Senator Clinton Anderson of New Mexico, the Chairman of the Senate Interior and Insular Affairs Committee, because he arrived only as Congress reconvened. I did talk to his staff, however. Secretary Udall read to us a letter that Senator Anderson had sent to him, and in that letter Senator Anderson endorsed the San Luis Agreement. The staff of Senator Anderson and his committee did not think there would be any hearing. I have written to Senator Anderson setting forth our hope that the matter can be terminated without a hearing. A copy of that letter is attached for your information.

OROVILLE DAM FLOOD CONTROL ALLOCATION

The President approved, as you know, the report of the Chief of Engineers and the Secretary of the Army by which \$44 million was allocated for the flood control share of the cost of Oroville Dam. In addition, the President included in his budget \$15 million for the initial payment to the State under that allocation. Governor Brown and I had indicated willingness to accept this allocation that the President approved. Deputy Director Elmer Staats, of the Bureau of Budget, was most helpful in working with me and with Fred Dutton at various times in bringing about this rather favorable conclusion of the negotiation that went forward most of last year.

APPROPRIATIONS HEARINGS

I anticipate that delegations of California flood control and reclamation water project proponents, as usual, will come to Washington under the wing of myself and the Water Commission when hearings are set up. We will try to make whatever preparations are necessary to allot the time allowed to California and to present a solid front. If you get word of when the hearings are likely to be held on the Public Works Appropriation Bill, it would be useful to us.

CONGRESSIONAL DELEGATION INFORMED

I kept key members of the California delegation informed. These included Senators Engle and Kuchel and Congressmen Harry Sneppard, Bernie Sisk, Bizz Johnson, Judge Saund, and George Miller. At Chairman Aspinall's request, I also went over the San Luis contract situation with Congressman Craig Hosmer.

AUBURN DAM AND FOLSOM SOUTH CANAL

Another item that may be of interest to you is the Auburn Dam, Folsom South Canal, Forest Hill Divide, and Malby Unit Project. The Department of the Interior has completed its report and recommendation with regard to this project

and it now is before the Congress with a recommendation, cleared by the administration, that it be authorized. Governor Brown and I have endorsed it. The Forest Hill Divide and the Malby Units were added for small upstream developments after the main project was prepared. I do not know whether hearings will be held on the authorization of this project. Congressman Rizz Johnson is interested in it.

Sincerely,

William M. Harne
Director

Attachments

WMS:st

cc: L. A. Goldberg ✓
H. Chapman
Gov. Brown
Scaling File

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Warne: had provided in the contract that the provisions of the 1902 Reclamation Act would not apply to state project water simply because the State Water Project water flowed through the joint-use facilities. I think that was logical enough. We were paying more than half of the cost of these facilities and we were going to operate the project. The federal government benefited proportionately with the state because of the economies effected by combining our two facilities at San Luis Dam.

I have never been able to see the logic of the argument that has been revived since that time to the effect that the 160-acre law ought to apply to the Kern County Water Agency and other irrigators who use state project water simply because the state project water may be stored in San Luis Dam along with Central Valley Project water and may flow with CVP water for 101 miles in a great canal that was jointly financed. I am not sure, however, that the fact that the joint agreement specifically provided that the state project water would not carry the obligations of the 1902 federal act was not a factor in enlisting support from some of the San Joaquin Valley irrigators for state rather than bureau operation of the facilities. Some of the irrigators to be served both by the federal project and by the state project may have felt more secure under state operation procedures than they might have under the bureau's thumb.

In any event, under the provisions of the federal authorization of the San Luis Unit, the joint agreement--a contract, really--had been transmitted to the Congress and was pending before the Interior and Insular Affairs Committees of both the Senate and the House of Representatives when we went to Washington in January, 1962. No construction could be started under the federal authorization until the joint agreement had lain before the committees for ninety days. If neither the House nor the Senate had taken action to disapprove of the contract in ninety days, the bureau could begin the construction. We advanced State Water Project funds to the bureau so that it need not wait for the Congress to act on its appropriation bill.

I called on Chairman Wayne Aspinall of the House committee. He said he planned no hearing and he thought the contract was safe. I told him that I had briefed a whole string of California congressmen, George Miller, Harold "Bizz" Johnson, Harry Sheppard, Bernie Sisk, Judge Saund, specifically, and he asked me to talk with Craig Hosmer, who was the minority member from California highest up on his committee. I promised to do so, and did, finding Hosmer fairly comfortable with the joint agreement and more interested in Colorado River matters since his Orange County district got most of its water through MWD's Colorado River Aqueduct.

Warne: Senator Clinton P. Anderson, of New Mexico, was chairman of the Senate committee, but he was out of town, had not returned from home as yet, but his staff assured me that we would have no problem with the contract in the Senate committee. To be on the safe side, I wrote to Clint when I got home and explained our position and expressed the hope that no hearing would be required. The chairman let the contract pass. In mid-April the bureau was cleared to begin construction of the San Luis Unit joint-use facilities.

I talked with Senator Hayden on that trip, also. He was slyly holding the Auburn Dam project hostage, not permitting anything to be done on it in the Senate, until he got some satisfaction on his own Central Arizona Project authorization. Bizz Johnson was the sponsor of Auburn Dam, which is on the American River in his congressional district, and he was highly placed on the House committee that must pass on the Central Arizona Project. The Senator had ways of keeping the California congressional delegation off balance, but he was not going to throw any monkey wrenches into the machinery so far as the San Luis Unit joint agreement was concerned. Pat Brown and I, as director of water resources, had approved Auburn Dam and several small adjuncts that make up the project. The delays enforced by Senator Hayden and the questions related to the exotic design for the dam, first adopted by the bureau, and to the site, which was belatedly found to be close to an earthquake fault, have prevented Auburn Dam from making the progress that the Central Arizona Project has made. The dam is being redesigned now, but some doubt that it ever will be completed, despite many millions spent in excavating the foundation and in building appurtenances.

This is a somewhat rambling review. Oh, yes, of course, I saw both Senators Engle and Kuchel while I was in Washington on that occasion. Clair and I were close friends, dating back to his arrival in Washington as a bright and brash young congressman from Northern California. He and Jim Carr, then undersecretary of interior, were boyhood friends, and my close personal friend from college days, Phillip P. Dickinson, was water consultant on the Senator's staff. Jim and Phil had both worked on the Central Valley Project when I was in the bureau in Washington. I remember that afterward Clair came out to Sacramento to a political meeting in the Capitol some time later. The Bee reported that he had to leave the meeting because of illness. I walked over to the Capitol with him the next morning from the El Mirador Hotel. Concerned, I asked him about his leaving the meeting the afternoon before. He said he had had several sudden little attacks involving headaches that made him dizzy, but it was nothing. He died some months later. Phil and Jim and I went to his funeral in Red Bluff. His death was tragic for California. Clair Engle had already attained a leadership position in the United States Senate on matters pertaining to water and resources. Had he lived, he would have made great contributions to water and power resources programs and legislation.

Chall: Among all the pressures exerted by California on behalf of the state's position, which ones--personal, legal briefs, arguments, party loyalty--do you suppose finally convinced Udall and [Frank] Barry to exempt the state from the 160-acre limit? On whom was the pressure most helpful--Udall, Barry, President Kennedy; and by whom, if any one or two people were thought to count most?

Warne: I do not think that the state was ever exempted from the 160-acre law. So far as I am concerned, it never applied to the State Water Project and it still does apply to the federal Central Valley Project. In my view, it was more a case of Barry trying to get the state to accept the 160-acre law on state project waters, which we never were inclined to do. The pressure was exerted by the lapse of the time the Congress gave the Interior Department to enter a joint-use agreement with us. I think President Kennedy and Secretary Udall both felt the joint-use facilities were the only way to go, and that trying to force the federal 160-acre law onto the State Water Project must not frustrate the joint project.

Let us review the history of the joint-use facilities a little further.

President Dwight Eisenhower, on June 3, 1960, signed the bill authorizing the construction of the San Luis Unit of the federal Central Valley Project by the Bureau of Reclamation under the Reclamation Act of 1902, which contained the family farm limitation, now referred to as the 160-acre law. This authorization act contained in it the authority for the Bureau of Reclamation to build the facilities jointly with the state of California so that the joint-use facilities would serve both the Westland Irrigation District's lands under the federal Central Valley Project, and also would serve the purposes of the California State Water Project.

As the bill was making its way through the Congress in 1959 and 1960, provisions were incorporated in it that an agreement with the state must be completed by January 1, 1962 or the bureau would build its project alone, not including capacities in the San Luis Reservoir and the 101-mile canal that would be needed to serve simultaneously the State Water Project. To build two parallel projects in this area, one for the Westlands district and one for the water service contractors of the State Water Project which required deliveries to be made south of Los Banos, would be more costly for everyone. This was not a prospect that anyone viewed with favor. Two newly built parallel canals along the coast range foothills from Los Banos to Lost Hills would confirm the most cynical criticism of our federal system, demonstrating that the federal government and the state government could not work together.

Warne: Two such canals serving parallel purposes would be lasting accusations. I think everyone, including Jack and Robert Kennedy and Udall and Barry of the administration that succeeded Eisenhower and [Frederick] Seaton, felt that such a monumental failure must be avoided.

While it was being considered in the Congress, the San Luis Unit authorization bill was encumbered with specific provisions that the federal acreage limitation would not apply to the state project waters because of joint construction of the facilities. These provisions, inserted in committees on both sides of the Capitol, were eliminated on the floor of both the House and Senate. The argument was made in the House that the provision was surplusage since no claim was made that the acreage limitation would apply to lands served by the state project anyway.

Arguments could be and were made that the legislative history indicated (1) that the Congress expected the 160-acre law to be applied to the State Water Project and (2) that, exactly the opposite, the Congress had determined that the 160-acre law need not be applied to the State Water Project water deliveries if the facilities were built jointly. This ambiguous situation was still prevailing when the Kennedy administration took office, and felt the need to review all pending problems inherited from its predecessor.

The requirement that the bureau-state contract be brought back to the Congress and pend ninety days before the House and Senate Committees was previously inserted by the Congress obviously to insure that the intent of the Congress should be effected in the negotiations between the Interior Department and the state of California. Since the agreement that was completed on December 30, 1961 between Pat Brown and myself, for the state of California, and Pat Dugan, for the bureau, and Secretary Udall of the Interior Department, did not seek to apply the 160-acre law to the State Water Project water to be distributed south of Los Banos and since it was submitted to both the House and Senate committees, neither of which raised objections to its automatic confirmation at the end of the ninety-day waiting period, one must assume that the contract was found to conform to the intent of the Congress.

You know from my own account of my meetings in Washington in January of 1962, that Chairman Aspinall knew about the contract which was pending before his House committee and that he was willing to accept it. Aspinall told me that he had heard of no objections and expected none to be raised on the House side. Senator Anderson's staff reported no objections and assured me that the Senator, personally, would not disapprove of the contract. I had known Clint

Warne: Anderson when he was in the House of Representatives and had worked with him when he was secretary of agriculture and I was assistant secretary of the interior. He was completely familiar with both the state's rights issue as it affected western water resources development and the family farm issue. I don't recall that I ever discussed the contract with him after it became effective in April of 1962. I do not know of any effort on the part of the Senate committee to take issue with the contract while it was pending during that ninety-day period. There were a couple of senatorial voices raised, but the committee seemed to ignore them.

When the administration changed in Washington and President Kennedy brought in Bob Kennedy as attorney general, Stu Udall as secretary, Jim Carr as undersecretary, and Frank Barry as solicitor of the Department of the Interior in January of 1961, we had a joint-use facility agreement under negotiation with the federal government. Those negotiations continued with the new team and I was hopeful that they could be completed and a contract signed by August 16. We learned, however, that reluctance had developed, particularly on the part of Barry, to completion of a contract that did not apply the 160-acre limitation to the state project water.

Ralph Brody was chairman of the California Water Commission at the time. He had been Pat Brown's original water counsel and had served as deputy director of the Department of Water Resources simultaneously under Director Banks, my predecessor. Brody had had a long history of service as a solicitor in the Sacramento regional office of the Bureau of Reclamation. He and Goldberg, then in the attorney general's office with Pat Brown, had prepared and argued those landmark cases on the application of the 160-acre law on the federal Central Valley Project. Brody and I went to Washington in September, 1961. Brody discussed the legal aspects of the contract with Barry. I met with Udall, Carr, Barry, and Associate Solicitor Ed Fisher, who I learned had been assigned to prepare a brief for Barry. Ed was a lawyer in the bureau when I was assistant commissioner, and we were old friends. We had fought many a battle together. As I remember it, we had been negotiating with him during the Seaton administration of the Interior Department.

I told Fisher that we thought efforts at that late date to insert the 160-acre limitation into the joint-use agreement were unfair to Governor Brown and to me, and that they would be interpreted in California as attempts by the ruthless federal government to dictate to the state in an unwarranted fashion on an issue that had been settled in the Congress and had been revived by the new administration more or less whimsically. Ed was very cautious in what he said on the subject of his assignment, and I could see that he was treading on eggshells.

Warne: The negotiations continued through October, and Barry finally challenged Goldberg to prepare a legal brief stating the reasons that the 160-acre limitation should not be included. The brief was prepared, sent to Barry on November 29, and transmitted to Udall by Governor Brown on December 1, 1961. In my judgment, Barry had decided to approve the contract without the 160-acre provision, but wanted Goldberg and the state to bear the onus, if there were any, of making the justification for the omission. In this way, he had the governor of California, his director of water resources, and Senator James Cobey, now a justice of the California Appellate Court, then chairman of the California Senate Water Committee, lined up in positions from which they would have to answer any criticism of the omission that might develop--in California, in the Congress, or elsewhere.

As you know, Barry did approve, the contract was made ready, and it was executed on the very last day of the grace period that the Congress had allowed the Interior Department.

Senators Wayne Morse, of Oregon, and Proxmire did make some effort to have Senator Anderson's committee hold a hearing on the contract before the ninety-day period of its pendency had elapsed. Morse, who frequently had gone out of his way to show political friendship with Governor Brown, was particularly vocal on the subject of the omission of the 160-acre provision. He was always a staunch advocate and protector of the acreage limitation provision in the federal reclamation law. This agitation, however, did not stir much response in the Senate, and Anderson did nothing about it.

I shall remember always and with the greatest of pleasure August 18, 1963. That was the day President Kennedy came to the site and broke the ground for the construction of San Luis Dam. A great crowd had assembled before a hastily build platform on the dry, grassy slopes looking toward the saddle in which the great dam now stands across the intermittent wash known as San Luis Creek. The wash was dry at that time. It never flowed, except during the short rainy season. San Luis reservoir, you know, is an off-stream storage facility. Flood waters in the Sacramento-San Joaquin river systems are led by the California Aqueduct and the federal Delta Mendota Canal to the O'Neill Forebay and pumped into the reservoir, where they are stored until needed by project water users farther downstream. Such reservoirs are conservation features. They are vastly out-sized with reference to the water courses on which they are built. San Luis Creek was hardly noticeable in this landscape at the time of the groundbreaking. In order to explain visually how big the dam was going to be, the engineers had planted varicolored smoke bombs along the center line of the dam clear across the saddle.

Warne: The president arrived from Yosemite by helicopter, and the choppers stirred up a great cloud of dust which swept through the crowd of spectators. The people did not seem to mind. They were in a gala mood. Cheers resounded through the dust cloud, although I suspected that none of the people could see the president until he mounted the platform and went to the forward rail, waving his hands. They really roared then.

I was already on the platform when the president arrived. Governor Brown followed him. To my amazement, the president said, "Hello, Bill, glad to see you," without us being introduced. I had met him casually during the campaign many months before. He might have been coached before he climbed those stairs, but I do not think so. He was in an enthusiastic and happy frame of mind. If there ever had been any reluctance on his part concerning the arrangements made with the state for the construction of San Luis Dam, it was in no way evident on that day.

The president made a fine, short speech, and then said, "Come on, Governor, let's blow up this valley," motioning to Brown to step forward and take one side of the handle of the plunger that had been prepared for him to detonate the blast. They pushed the plunger down, and the colored curtain of smoke instantly appeared from abutment to abutment of the dam. I think the show impressed and pleasantly surprised the president. I know it did the governor, for he told me so later. The crowd cried out in amazement. It was a most spectacular sight. The people were still shouting and rushing around taking pictures when the formalities were concluded. Some got through and surrounded the president. It was all done in the highest of spirits. There was some difficulty in clearing the chopper pads for take off for the departure of the official party. The pads were just cleared ground, from which the brown grass and weeds had been chopped.

It was the last time any of us saw Jack Kennedy. He was assassinated in Dallas a short time later. I remember that I was addressing the California Water Commission at the Disneyland Hotel in Anaheim when Hans Doe, a Southern California water leader from Vista, brought a note in from the lobby to Ralph Brody, who was presiding-- Brody had presided at the groundbreaking, too. Ralph interrupted me to announce that the president had been shot. I asked for a minute of silent prayer, and then continued, but at the conclusion of my presentation, which seemed so utterly unimportant then, it was announced that Kennedy was dead. I felt shattered. We all did. I left immediately, driving with Mrs. Warne up Highway 101, listening to the radio in the car, and feeling more and more certain that nothing would ever be quite the same again. Our loss was irretrievable.

Chall: Coming as you had from long years in the Bureau of Reclamation, what went through your mind as you argued on the other side of the land limitation issue?

Warne: I am not conscious of arguing on the other side of the land limitation issue. Certainly, I strongly supported the 160-acre law when I was in the bureau and while assistant secretary of the interior. I did not then and do not now subscribe to the belief that only large farms can succeed on irrigated lands in California. Family farms can be, and many of them are, social and economic successes in California. My view is that efforts to perpetuate the family farm in California, using only limitation of the application of irrigation water on some projects as a means of doing so, cannot succeed while numbers of very powerful influences are exerted elsewhere and in these same projects toward enlarging and commercializing all farming enterprises. I think the 160-acre law is too little and it has come on the California scene too late. The family farm if properly defined can stand on its own bottom, but our universities, banks, and marketing institutions--except for some marketing cooperatives--are promoting other types of agricultural enterprises. The agribusiness types continue to gain dominance. The 160-acre law, applied to only some areas, will not stem the trend of commercialization and enlargement.

There have been many fatuous arguments made against the 160-acre law. I remember Senator Sheridan Downey insisted that large landowners in the San Joaquin Valley would not come into the Central Valley Project, but would continue to pump irrigation water from their receding water tables, if the bureau insisted on applying the 160-acre law. I did not think they would not participate because the project water was needed by them and the economics of the situation strongly favored participation in the project. Downey said the big owners by non-participation would pass the costs of the project on to the small, family farmers who remained and that the little fellows would be crushed by the weight of their obligations. I did not think you could bankrupt a farmer by providing him low-cost water. Well, the big landowners did accept the contracts with the 160-acre limitation in them, and they did take the water from the Central Valley Project. They signed the hated recordable contracts to subdivide their holdings in a ten-year period.

It is asserted now that most of them have only achieved technical compliance with the reclamation law, that they have done so by parcelling lands among relatives, et cetera, and that the bureau's administration of the 160-acre law has been a failure of public policy. If this be true, however, then Senator Downey's parting accusation in his book, They Would Rule the Valley, also was in error. He contended that the bureau's real objective was not land reform but political control of the Central Valley. He contended

Warne: that by enforcing the 160-acre law and other federal enactments in direct association with local water districts and farmers, the position of the state was undermined, and political control would be passed to ambitious bureaucrats responsible only, if to anyone, to the distant federal establishment. When I first read the Senator's book--it was just before he bowed out of the race for reelection, to be succeeded by Richard Nixon, who won his seat in a bitter contest with Representative Helen Gahagan Douglas--I thought Senator Downey's thesis was incredible. Certainly, I, as an official of the Interior Department, had no designs on the political control of the valley.

Having viewed the relationship of the Department of Water Resources with the Bureau of Reclamation from the state's standpoint decades later, I have detected some dangers to effective administration by the state government of state resources development and management programs, dangers that grow out of dictation by the Congress of conditions that states must meet if parallel national programs are to be carried out within their boundaries.

California for more than fifty years has commanded her own water destiny. The state planned the Central Valley Project. The state planned and carried out the California State Water Project. The state alone is conscious of the need for an integrated and comprehensive plan for the development and use of its own water resources. The federal Reclamation Act directed the Bureau of Reclamation to file on waters for its projects under state laws, the Congress recognizing that in the arid West the control of the life-giving resource should be in the local government of general jurisdiction. Several times in recent years, however, the Department of the Interior has asserted superior jurisdiction in water rights matters. The United States Supreme Court now seems to be developing a consistent line of decisions, however, that recognize the supremacy of state water rights.

California was irked by the fact that the Bureau of Reclamation insisted on operating the Central Valley Project facilities, despite the fact that the federal authorization act clearly authorized the making of contracts with the state. The bureau contended that it could not trust the state to enforce the 160-acre law, because many state officials at that time were arrayed against the application of the limitation on ownerships within the Central Valley Project area. The state felt that the bureau was becoming an increasingly arrogant bureaucracy, which attitude was reflected in Senator Downey's book.

There is no denying the fact that, even as late as 1961, a part of the state's adamant insistence on inclusion in the San Luis joint-facilities agreement of provision for operation of the facilities by the state and a part of the resistance to the efforts of

Warne: the Department of the Interior to extend the dominion of the 160-acre law over the State Water Project came from those earlier roots. A state's rights issue is involved in all of the clashes between the Department of Water Resources, and now the State Water Resources Control Board, and the federal agencies which operate in the field of water resources development--the Bureau of Reclamation and the Corps of Engineers, particularly among the latter.

California is strong enough to manage her own water affairs, and I advocate that the state continue to do so.

The Significance of Governor Pat Brown's State Water Project

Chall: I am really grateful for the addition of the historical and philosophical background on water in California. Now is there anything you want to add concerning the history of the water programs in Pat Brown's administration, your period as director of the Department of Water Resources?

Warne: Not much, certainly. It has been an exciting experience for me to review and to relive those years. I think that I teamed rather well with Pat Brown. I consider him a great leader. I worked in effectuation of his water program, not my own nor that of Hyatt, Edmonston, Banks, or anyone else that went before us. At all times, the governor took the point position in the advance guard. I tried to administer the program, to build the State Water Project, within the guidelines that he laid down. I think that Pat Brown will agree with me that I and our Department of Water Resources succeeded fairly well in doing that.

During a rather long career in the federal and state governments, I had several--quite a number--of fairly important jobs. After being out of government for more than twelve years now--since January 1, 1967--I look back on the State Water Project as the most challenging and its construction as the most fulfilling achievement of my career. I know Pat Brown shares my pride in the Oroville Dam, the California Aqueduct, and the A.D. Edmonston Pumping Plant. Each of these elements involved pushing the technical frontiers into new territory; each was unique in its time.

Edmund G. Brown, Sr. set out to bind the state together, north and south, with a comprehensive water development plan under the slogan, "One state." The Burns-Porter Water Bond Act referendum was Proposition One on the ballot in 1960--and not by accident, either. Perhaps the unity of purpose that was achieved by the governor has been somewhat eroded in these later years. That does

Warne: not diminish the achievement of the governor. The State Water Project will go into history as Pat Brown's water project. The facilities will continue to serve millions of Californians so far into the future that archaeologists of some future era will be cataloguing element by element the initial facilities of Pat Brown's water project, just as we catalog the aqueducts of classical Rome, naming them after the Roman governors who built them. They were spread through more than four centuries.

I have full faith in the future of California. Variations in growth rates, changing attitudes toward the use of our resources, fading enthusiasms and diminishing influence of certain dominating personalities, all and any of these may modify details, but long-range in an arid land nothing will occur to eliminate the need for water nor the significance of such projects as Pat Brown's California State Water Project.

Transcriber: Marie Herold
Final Typist: Marilyn White

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United Nations Development Program, N.Y., Technical Assistance Expert, Argentina, 1970.

Department of HEW, Region VIII, Eastern Montana Economic Development, 1969.

CALTRANS, Futures Research, 1975.

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Integration of land, water and power developments
Surface and ground water protection, control and conjunctive use

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PRINCIPAL POSTS HELD:**PRIVATE INDUSTRY**

Consultant 1969—
 President, William E. Warne Associates, Inc., 1973—
 Vice President, Development and
 Resources Corporation for
 Water Resources, 1967-1969

STATE OF CALIFORNIA

Director of Water Resources, 1961-1967,
 in charge of formulation and construction
 of State Water Project.
 Director of Department of
 Agriculture, 1960.
 Director of Department of
 Fish and Game, 1959.
 Administrator of Resources Agency,
 1961-1962.
 Member, Water Pollution Control Board,
 1959-1967.
 Member, District Securities Commission,
 1961-1967.
 Delegate, Western States' Water Council,
 1965-1967.

FEDERAL

Member, President's Water Pollution
 Control Advisory Board, 1962-1965.
 Assistant Secretary of Interior for Water
 and Power, 1947-1951.
 Assistant Commissioner of Reclamation,
 1943-1947.
 Assistant Director of Power, Interior
 Department, 1943.
 Chairman, Federal Interagency River Basin
 Committee, 1948.

ABROAD

Advisor; Five-Year Program for development of
 Egypt's Western Desert, using groundwaters of the
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 Team Leader,
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 Project Manager, Khuzestan Development
 Project, Iran, for Development and
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 Economic Coordinator for Republic of Korea,
 United National Command, ICA, 1956-1959.

Director, United States Operations Mission
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County Director, Point IV in Iran, TCA, 1951-1955.

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MEMBERSHIPS

Member, Board of Directors,
 National Water Supply
 Improvement Association.

Director of Associates, AQUACARE, 1973-77.

National Academy of Public Administration;
 Chairman, Standing Committee on Environmental
 and Resources Management.

United States Committee on Large Dams.

United States Committee on Irrigation and
 Drainage.

Wildlife Society.

Sigma Delta Chi, Professional Journalistic Society.

VITAL STATISTICS

Born, Seafield, Indiana, Sept. 2, 1905.

Education: Public schools, Imperial County,
 California; A.B. University of California, 1927; Dr.
 of Econ., Yonsei University, Seoul, Korea, 1955;
 LL.D., Seoul National University, Korea, 1959.

Married: Edith M. Peterson, Pasadena,
 California, 1929.

Children: Mrs. David C. Beeder, Omaha,
 Neb., W. Robert Warne, Department of
 State, Washington, D.C.; Mrs. John W. Monroe,
 Palo Alto, Calif.

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TAPE GUIDE -- William Warne

Interview 1: February 28, 1979	1
tape 1, side A	1
tape 1, side B	13
tape 2, side A	30
tape 2, side B	44
Interview 2: March 13, 1979	59
tape 3, side A	59
tape 3, side B	72
tape 4, side A	86
tape 4, side B	102

INDEX -- William Warne

- acreage limitation, 87-92, 109, 130-137, 139-141
 Agency for International Development, 3-5
 Agriculture, Board of. See California State, Department of Agriculture
 Agriculture Council, 28-29
 Anderson, Clinton, 133, 135-137
 Aspinall, Wayne, 72, 127-128, 132, 135
 Auburn Dam, 111, 113, 133
- Banks, Harvey, 36-37, 40, 42
 Barry, Frank, 134-137
 Bendorf, Thomas, 131
 Bonderson, Paul, 22
 Brody, Ralph, 48, 136, 138
 Brown, Edmund G., Jr. (Jerry), 74, 77, 94, 111, 121
 Brown, Edmund G., Sr. (Pat), 3-6, 11-12, 18-20, 22-24, 28, 31-33, 36, 38-41, 46, 48, 56-57, 63-64, 73, 75, 82, 87-91, 96-97, 121, 131, 138, 141-142
 Bureau of Reclamation. See United States
 Burns, Hugh, 47, 85, 90
 Burns-Porter Act, 40, 77, 104-107, 110-111
- California State
 - California Water Commission, 58, 97, 110, 118, 138
 - Colorado River Board, 121-122, 125-126
 - Department of Agriculture, 24-35
 - Board of Agriculture, 26-27
 - Department of Finance, 57
 - Department of Fish and Game, 7, 10-23
 - annual pack trips, 18-20
 - Department of Highways, 56-57
 - Department of Water Resources (1961-1967), 36-143
 - Fair Board, 32
 - Federal Interagency Group, 106-109
 - Resources Agency, 20, 28, 58-59
 - Water Pollution Control Board, 20-22
- California [State] Water Project, 1961-1967, 36-142
 Capps, Edward, 12, 18-19
 Carr, James K., 116
 Central Arizona Project, 98, 116-118, 123-124, 133
 Central Valley Project, 2-4, 110-111, 131-132, 139-140
 Central Valley Project Act, 40, 65, 82, 110-111
 Chamber of Commerce, state, 102-103
 Champion, Hale, 24, 29, 36, 57, 63, 128-129

Cobey, James, 67-68, 81, 137
 Colorado River, 115-128. See also Pacific Southwest Water Plan
 Corps of Engineers (Army), 106, 109, 114, 141

Davis, Pauline, 13-14
 desalination, 76
 Dillon, Timothy V.A., 128-129
 Dos Rios. See Eel River
 Dowd, Munson (Mike), 121-122
 Downey, Sheridan, 139-140
 Drain, 66-70
 drought (1976-1977), 93, 115

East Bay Municipal Utility District, 112-113
 Edmonston, A.D., 2-4
 education, financing of, 63-64
 Eel River, 66-67, 77-78, 103-108
 election campaign, state
 1962 gubernatorial, 103
 Ely, Northcutt, 122-123
 Engle, Clair, 71, 133

Fairs. See California State
 Farm Bureau Federation, 29
 Feather River Project Association, 102-103
 Fisher, Edward, 136
 Fisher, Hugo, 58, 90-91, 129
 Folsom South Canal, 111-112

Gardner, Neely, 20, 43, 50, 57
 Gianelli, William, 42, 61, 68, 100
 Glen Canyon Dam, 118-124
 Glenn Complex, 104-107
 Goldberg, B. Abbott, 48, 50, 56-58, 81, 84, 90-91, 128, 131, 137
 Golzē, Alfred, 42-43, 58
 Gordon, Seth, 10-14

Hayden, Carl, 98, 117, 133
 Hyatt, Edward, 1-3

Irrigation Districts Association, 102-103

Jackson, Henry (Scoop), 71, 117, 125
 Jacobsen, W.C., 24-25
 Jensen, Joseph, 6, 95-100, 126
 Johnson, Charles, 7, 20
 Johnson, Harold (Bizz), 71

Kennedy, John F., 134-135, 137-138
 Kern County Water Agency, 86-93, 132
 Korea, 4
 Kronick, Stanley, 89-90

lobbying, 14, 29, 128-129
 Lowrey, Lloyd, 13

MacBride, James J., 46
 media
 newspapers, 14, 18-19, 46
 Metropolitan Water District, 6, 37-38, 62, 74, 76, 89-90, 92-100, 116,
 123-124, 125-127
 Meyers, Charles W., 21
 Miller, George, Jr., 11, 40, 46, 82-86
 Morse, Wayne, 137
 Mosk, Stanley, 128
 Mrak, Emil, 33

New Melones Dam, 111
 Nichols, Luther, 22
 Nonini, Rose, 59
 North American Water and Power Alliance (NAWAPA), 115-117
 nuclear power, 73-75

Oroville Dam, 40-41, 104-105

Pacific Southwest Water Plan, 114-119, 123-125
 Parsons, Ralph M., 115
 Paul, Charles, 28
 Peripheral Canal, 60, 66-67, 76, 78, 92, 104, 112, 127
 pesticide control, 33-34
 Porter, Carley, 85
 Porter-Cologne bill, 64
 power, electric, 70-75
 Price, Reginald, 48-50, 57-58
 Proxmire, William, 137

- Rawn, A N, 22
 Reagan, Ronald, 4-5, 11, 47, 60-61, 64-68, 77-79, 91, 94, 96, 107
 Rickover, Hyman, 73-74
 Rupp, Frederick, 50, 57
- San Bernardino Valley Municipal Water District, 37, 95
 San Luis Reservoir Joint Service Contract, 87, 130-138, 140-141
 Shannon, Walter, 11, 17, 18
 Sisk, Bernard (Bernie), 71
 South Bay Aqueduct, 113
 sportsmen's groups, 16-17. See also media
 Sprague, Irvine, 128-129
 Steiner, Wesley, 50, 122
- Teale, Stephen, 81
 tidelands oil funds, 62-66
 Towner, Porter, 50, 58, 128-129
 Tyee Club, 17
- Udall, Stewart, 71, 114-118, 130, 134-135
 United States
 Bureau of Reclamation, 106, 109-114, 124-125, 130-135, 139-141
- Warne, William
 techniques and philosophy of administration, 34, 39, 52, 60, 100-101, 128, 130
 Warren, Earl, 4, 87
 wastewater reclamation, 69-70
 water pollution. See California State, Water Pollution Control Board
 Wente, Carl, 16
 Western States Water Council, 116-119
 Wildlife Conservation Board. See California State, Department of Fish and Game
 Wild Rivers Act, 78, 106-108, 115
 Winton, Gordon, 20
 Wright, James, 20, 43, 48, 52, 57

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Paul R. Bonderson

EXECUTIVE OFFICER, REGIONAL AND STATE WATER POLLUTION
AND WATER QUALITY CONTROL BOARDS, 1950-1966

An Interview Conducted by
Malca Chall in 1980



PAUL R. BONDERSON

TABLE OF CONTENTS -- Paul R. Bonderson

INTERVIEW HISTORY	i
BRIEF BIOGRAPHY	iii
I EXECUTIVE OFFICER, CENTRAL COASTAL REGION, WATER POLLUTION CONTROL BOARD, 1950-1956	1
The Administration of the Dickey Act	2
Relationships with the State Board and with Representatives of Industry	11
The Cooperative Approach to Solving Problems	14
II EXECUTIVE OFFICER, STATE WATER POLLUTION/WATER QUALITY CONTROL BOARD, 1956-1967	18
Getting Started: Underlying Philosophies and Relationships	19
Organizing the Board Meetings	26
1959: Background of AB 1974, and New Directions	27
Taking on a More Vigorous Control Program: Governor Edmund G. Brown's Directives	34
The Effect of the Regional Boards	40
1963: Establishing Water Quality Control as a Factor in State Water Policy	43
Background on Water Quality as an Issue	44
Legislation: AB 3025 and SB 1096	46
1965: Additional Legislation Concerning Quality Control and Authority	50
The Enduring Split Between Department Directors and Appointed Members on the State Board	53
1967: The Change in Administrative Structure and Direction	55
Evaluating the Change and the Function of the State Water Resources Control Board, 1967-1980	58
III SOME SPECIFIC ISSUES IN THE ADMINISTRATION OF WATER POLLUTION AND WATER QUALITY CONTROL	62
Budgeting, Research, and Interagency Relationships	62
Lake Tahoe	66
Tijuana, Mexicali, and Imperial Beach	68
Dairying, Lumber Mills, the Drain, and Pesticides	70
The Selection of Contractors	71
Pulp Mills	72
The Effect of the Federal Grant Program	73
The Uses of Research in Policy Direction	75
TAPE GUIDE	78
INDEX	79

INTERVIEW HISTORY

Paul R. Bonderson has been associated with water pollution control in California throughout his career, following his 1947 graduation from the University of California at Berkeley in civil and sanitary engineering. When the state and regional Water Pollution Control Boards were organized in 1950 (soon after the passage of the Dickey Water Pollution Act), Mr. Bonderson moved from his position as associate sanitary engineer with the Department of Public Health to Central Coastal Regional Board Number 3 as its first executive officer. In December, 1956, he was appointed executive officer of the state Water Pollution Control Board, later Water Quality Control Board, a position he retained until 1967. At that time the administration of water quality became the responsibility of the five-person full-time Water Resources Control Board. Within this organization Mr. Bonderson has been chief of the Division of Water Quality, and is today coordinator for regional operations.

Keeping in mind the advice proffered when he came on as executive officer of the regional board, "to keep the board out of trouble," and finding that advice compatible with the philosophy of the Dickey Act which he believed was to work through a cooperative rather than the big stick approach, Mr. Bonderson sought cooperation rather than confrontation during the years he directed the activities of the state and regional boards. Thus he sought to maintain cooperative relationships with his board members, his fellow executive officers, the directors of both state and federal agencies, the municipal and industrial discharge groups, as well as with spokesmen for the environment--chiefly the sportsmen's organizations. Considering the fact that bills to revise the organization and philosophical base of the state and regional boards were regularly dropped into the legislative hopper, particularly after 1959, and that these measures were either strongly favored or highly unpopular with the very persons or groups with whom Bonderson sought to cooperate, his position in the middle must often have been difficult indeed.

How he viewed his role in the maintenance of water quality and dealt with the diverse scientific and administrative issues during his two decades of board leadership have been examined in this oral history.

While it seemed obvious that such an unusually long-term career in the state's water pollution control agency made Mr. Bonderson a most appropriate participant in this study dealing with water, when asked to review his career he was concerned that because so much time had elapsed he would be unable to recall enough of the details of his experiences to provide a useful interview. Once assured that he would receive enough background material to jog his memory, he consented.

Excellent sources were located among the papers of Governor Edmund G. (Pat) Brown in The Bancroft Library, and in the Water Resources Center Archives on the Berkeley campus, especially among the collected papers of

William O'Connell. The oral history interviews with Frank Stead and Henry Ongerth produced by the Regional Oral History Office for an earlier study provided useful background. In addition, both Ruth Church Gupta, who had served on the San Francisco Bay Regional Board (1959-1962) and the State Water Quality Control Board (1964-1967), and Frank Stead agreed to talk with me about their experiences in order to help round out my understanding of this complex and controversial subject. Their taped conversations have been deposited in the Microforms Division of The Bancroft Library.

Mr. Bonderson and I first met in his office on May 21, 1980 to discuss the draft outline of the interview which I had prepared, and to review the background material that was available for him to study. It was already apparent that he, contrary to his initial doubts, would have no problem with recall. By the time I returned on June 5 for our first three-hour session, he had gathered some additional papers from his files and given much thought to the questions. Characteristically chewing all the while on a short, unlit cigar, he talked about his experiences thoughtfully and candidly. The following week, on June 11 in a two-hour session, we completed the interview. Mr. Bonderson reviewed the transcript during November, 1980, filling in a few details and making minor corrections.

The concern for the maintenance of water quality in California is as vital today as it has always been. The pollution problems are more subtle and perhaps more hazardous, the administrative costs are much higher, the governmental agencies involved more numerous, as are the regulations. So too are the environmentalists and their watchdog agencies. In Mr. Bonderson's review one can trace the development of water pollution control from those seemingly simpler concerns and regulations to the more complex ones of the 1980s.

Malca Chall
Interviewer-editor

5 May 1981
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

Governmental History Documentation Project Interviewee

Your full name Paul Richard Bonderson
Date of birth Sept. 30, 1919
Father's full name Chris Bonderson
Father's place of birth Denmark
Mother's full name Flossie Brunker Bonderson
Mother's place of birth Blanco, Iowa
Where did you grow up? Dunsmuir, Calif.
Education B.Sc. - Civil + Sanitary Engineering,
University of Calif., Berkeley, Calif.
Early employment Water Purification Eng. San Francisco
Water Dept.

Positions held in state government Assistant + Assoc. Sanitary Engineer,
State Dept. of Public Health, Executive Officer, Central Coastal
Regional Water Pollution Control Bd., Executive Officer,
State Water Quality Control Bd., Chief Division of Water
Employment after leaving state government Quality and Coordination
of Regional Operations, State Water Resources
Control Bd.

I EXECUTIVE OFFICER, CENTRAL COASTAL REGION, WATER POLLUTION
CONTROL BOARD, 1950-1956

[Interview 1: 5 June 1980]##

Chall: Where did you find this?*

Bonderson: It was in a group of papers I had given years ago that fortunately my secretary saved for me. I went back over and read some of these. They were a little help, but not much.

Chall: I was in the Water Resources Archives at Berkeley, the library that's devoted to water. They have about 148 various sizes of portfolios or little notebooks that were compiled over the years by William O'Connell. They seemed to be very well set up, very well organized.

Bonderson: He was exceedingly well organized; he had a fabulous library.

Chall: Is that right? Well, those papers were all organized and somebody gave them to the Water Resources Archives; and what the archives did was to provide a key to the information in each notebook. So when I wanted to see something about hearings on these pollution bills, I went in there and used them. They were invaluable.

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes, see page 78.

*AM Rawn and Paul R. Bonderson, "Useful Water for California. A Reappraisal of the Present Position of the Water Pollution Control Board and a Forecast for the 1960s," 1961. Delivered by Mr. Rawn at the 33rd Annual Meeting of the California Sewage and Industrial Waste Association, April 27, 1961.

Bonderson: He would go to meetings, and if he wasn't particularly interested in what was going on he would scan journals, magazines, what-not and clip the material that he wanted to put into his library.

Chall: There are press clippings, hearings, statements made by various people, on various matters: the range is very wide. I was just interested in the pollution control, but everything seems to be in there.

The Administration of the Dickey Act*

Chall: I thought I'd find out what I could about your experience on the regional boards between 1950 and 1956. As I understand it, you came onto that board, region three, just when it was setting up?

Bonderson: When it was first organized; and as I recall, I was appointed the executive officer in April of 1950. So for the first year, I and a secretary were the only staff to that particular board. We employed another engineer in August of '51.

Chall: Did the legislature authorize a certain amount of funds for these regional boards, and you had to live within that limit at the beginning? Or how was it determined?

Bonderson: The original Dickey legislation appropriated \$300,000 for the support of the state and regional boards for the fiscal year '49-50. This was more than enough, since none of the boards became operable until about April or May. The state board had its first meeting, I believe it was, in January of 1950.

Chall: Who appointed the regional executive officers?

Bonderson: The appointments of the regional executive officers were made by the individual regional boards.

Chall: They came first?

*The so-called Dickey Water Pollution Act was a series of eleven bills adopted by the legislature in 1949, the impetus for which came from the Interim Fact-Finding Committee on Water Pollution chaired by Assemblyman Randal F. Dickey.

Bonderson: Well, the state board had its office, had an acting executive officer; but the Dickey Act provided that the regional board was to appoint their own executive officer. There's no documentation of this, and I searched the files when I first came to Sacramento. So what I'm saying is what I heard from Vinton Bacon, the first permanent executive officer, who indicated that the acting executive officer, Frank Stead, and some of the director-members wanted to have a rather strong, active state board.

Apparently there were discussions during these formative months about the state board having some influence on the appointment of regional board executive officers; and there were discussions about the role the state board should play. It's my understanding from these conversations with Vinton Bacon that the board deliberately took the position that the legislative intent was that the emphasis should be on the autonomy and the strength of the regions, and that the state board should let the regional boards conduct their affairs pretty much as they so saw fit. That's the pattern that the state board took during the first five or six years--emphasis on the autonomy, and placing essentially full responsibility on the regional boards.

As this relates to budgeting, I do not recall the specific numbers, but all of the boards, the regional boards, took the position that they were going to move into this slowly, and not build up a big bureaucracy. The boards chose not to employ nearly the number of people that the original budget provided for. In fact, as I recall, the numbers of people--here again I don't remember the number--didn't come up to the strength that they initially anticipated until almost '62 or '63. It was a rather conservative approach taken by the boards.

Chall: That underlay the Dickey bill, didn't it, a conservative approach at least with respect to letting the representatives of the various groups, the discharging groups mainly, determine how they would take care of pollution problems.

Bonderson: I don't think there was any question that that was the Dickey intent, that the regional boards be the primary agencies involved. In fact, the original Dickey bill did not provide for any state board at all; actually, the original bill was for seven regional boards, no state board, with the state Department of Public Health taking the initiative for urging the governor to insist there be some kind of a state organization.

The final legislation, as I understand it, was a compromise, there being a state board, but a state board with limited jurisdiction. The initial act only provided for an executive

Bonderson: officer and secretarial support; there was no provision for staffing at the state board. There was provision for technical staff at the regional board level.

Chall: Well, I guess it's unusual in the annals of bureaucracy that money would not be spent. [laughs] Would some regions have taken more staff than others, depending on their own needs--San Francisco or San Diego, for example?

Bonderson: Oh, yes. The three larger regions, San Francisco, Central Valley, and Los Angeles, very shortly put on technical staff; not a great number, but they did have a small technical staff. In the other regions it was at least a year or more before they employed any technical staff other than the executive officer; in fact, the Lahontan regional board operated with only an executive officer and a secretary for ten years. The Santa Ana regional board's participation in the budget process was to ask the executive officer, "Is this the smallest budget of all the regions?" [laughter] And they were happy when they were informed, "Yes."

Chall: That probably changed too, in time, as problems developed, but I'm sure there were differences. Was there much competition in region three when you were applying for that position?

I was wondering about whether there were very many people competing for executive officer, not only in region three but in any of the other regions. Were there certain specifications that you be technically trained as sanitary engineers, or engineers at least?

Bonderson: There were no statewide criteria or specifications for the regional executive officers. The state board did establish a salary level for the regions; there were three salary levels, with the Central Valley, Los Angeles, and San Francisco having the higher level. The Lahontan, the North Coast, and the Colorado were the lower salaried levels, and the rest were at midrange.

Generally speaking, the competition was not very great. In the Central Coastal Region, I don't recall what the specifications were in that instance, but there were some indications that they wanted somebody who had background, training, and knowledge in the field. There were only four or five valid candidates, with maybe only three real strong candidates.

Chall: That was in Central Valley?

Bonderson: No, Central Coastal, the region that I was involved in.

Chall: Region three, yes--

Bonderson: One of the reasons there was not a great deal of competition was that a good many people in the field felt that the Dickey legislation was a sell-out, that this was legislation that was enacted, instead of controlling pollution, to let it continue. That's saying it rather harshly--

Chall: Well, that's been said--

Bonderson: A number of the people who were in the field, people like myself who worked for the state health department at the time, were a little hesitant to get into this type of a situation. Now, I'd like to say that there was a lot of feeling that this was not anti-pollution legislation. It surely did not turn out that way. It functioned, I would say, rather successfully.

Chall: Rather successfully those first few years?

Bonderson: For the first few years and continuing on. Yes, there've been changes, many, many changes, but the philosophy of decentralized control and the basic principle that the Dickey legislation was based on has prevailed, has been successful. In fact, the federal water pollution control act that we have now, with a couple of very substantial philosophical differences, is pretty much based on the Dickey approach.

Chall: Regional, then?

Bonderson: No, not regional. That is, of establishing end result control, rather than the permit process that has been followed by all the states and the state of California up until 1949.

Chall: Can you explain that? I've read it, and I think I understand it--

Bonderson: The process within the state of California up until 1949--and the other states for many years on--in a very simplified fashion was that someone proposing to build a sewage treatment plant or industrial waste disposal system or to make modifications to an existing system, would propose to the regulatory agency--which was usually the state health department--"I want to build this activated sludge plant according to these plans and specifications." The departments would review the plans and specifications, and would say, "Yes, we will issue you a permit for the construction and operation of these facilities." Whereas the Dickey legislation, and now the federal act, says, "You shall meet these end results."

Now, in the federal legislation the end results are essentially on the effluent, in parts per million or some other quantitative measure. The Dickey legislation provided for either effluent limitations and/or a combination of effluent or receiving water

Bonderson: limitations. I think the original Dickey legislation was that you could go to effluent limitations, but they envisioned that the bulk of the requirements would be receiving water-type requirements.

Chall: That seems to me where an awful lot of the subsequent controversy lay in terms of so-called beneficial use, or final, general use of the waters. There were a couple of always sticky points from 1949 on, and if I read all the arguments correctly, one of them seemed to have been this argument about what the waters would be finally used for. Am I reading that correctly?

Bonderson: That was one of the major changes that came about from the Dickey legislation. Pollution control up to that time had been primarily centered in state health departments, with the emphasis being given to presumably health protection, and avoidance of nuisance, with limited attention given to the fishery resources, essentially just maintaining dissolved oxygen.

Some of the states were beginning to move into the field of classifying streams; California didn't. But these other states had a stream classification system that did look into some degree considerations other than public health. The Dickey legislation--the basis of it--is the uses made of the water. And of those uses, the quality was to be maintained sufficient to assure these uses would not be harmed, but at the same time allow for the planned, legitimate use of using the same waters for waste disposal, without adversely affecting beneficial uses. The federal act, and our act, still focuses in on maintaining water quality suitable for beneficial use.

Chall: Is there any problem about making sure that it does? What if the plant is built and it doesn't work? Or you change the concept of beneficial use along the way, then what happens?

Bonderson: That was one of the big arguments from the very beginning of the program--that this was an abatement or a corrective approach, instead of a preventive approach. That is, some people contended that the permit process was superior because someone took a look at the proposed facilities, and could make a predetermined decision, "Yes, this will adequately protect the uses." Whereas, by saying you had to meet a certain quality in the effluent and then leaving it to the discharger as to whether or not what he proposed to do will or will not meet these end results, was a weakness by their contentions. I observed the permit process for three years before I went to San Luis Obispo, and of course the no-permit process. In effect, we have been reviewing plans and specifications for the last twenty-five years. It began back in '56, but it wasn't a close scrutiny, through the state and federal grant programs.

Bonderson: But beginning in 1970, there's been very close scrutiny of almost all projects built, because they have to be reviewed and approved by the state and EPA [Environmental Protection Agency] before they get their grant. In effect you have the pre-review before construction. I would say there's little, if anything, gained on an overall evaluation. You could go back and point to possible specific cases where the end result control didn't do so well. But you can also go to a good many projects that were very carefully scrutinized here in the seventies and they're not functioning properly. I don't think the average is any better with this close scrutiny than it was without the scrutiny. If anything, maybe it is poorer now, with one of the reasons being the diffusion of responsibility between the state, EPA, and the consulting engineer. And the bureaucracy is becoming so cumbersome, I suspect some consulting engineers just give up. "Okay, you want it this way, we'll do it." We've had some substantial failures.

Chall: Through the newer system.

Bonderson: Through the newer system. I know of one case where a grant was given, a certain sludge processing facility was approved; the community changed consulting engineers before construction started; he went over the project and was absolutely convinced that the sludge processing system would not function properly. The state told him, "Nope. Don't change it. This is what we have approved." So it was built, and sure enough it didn't function.

So they're in for another grant to patch up a plant that had been approved.

Chall: Some of what you say surprises me, because I thought that if there was anything one could be sure of in this day and age it would be the sludge process.

Bonderson: No, that's one of the more difficult ones.

CHall: I thought Professor [Charles Gilman] Hyde had set that up years ago and that was--

Bonderson: One of the major problems is sludge processing and sludge disposal. One reason is the volume that's involved; how do you get rid of it? Plus, it's a biological process, and any biological process is not as amenable to design, operation, and construction as, say, building a bridge.

Chall: So it's still an uncertain state of the art, is that right?

Bonderson: It's somewhat of an art rather than a science.

Chall: Well, you've enlightened me. As a result of these differences in understanding the so-called art you may run into problems, because there are too many people with differences in the way they perceive what is right?

Bonderson: Sewage isn't just sewage. The composition, the circumstances are somewhat individualized, and to tailor a system right down to a very fine design level--it just isn't there yet.

Chall: Does this say anything about the differences between consulting engineers in private business and persons who are a part of the state or the federal bureaucracy? Is there a difference in training, a difference in philosophy? Let's take the case you just brought up: why would two consulting engineers to a project have a different point of view, and the state persons (and probably federal along the way) have a point of view that goes along with, say, the first consultant?

Bonderson: It's almost impossible to answer that. Every individual has his own biases, his own prejudices, what have you. As individuals, whether they are private consultants or state employees, even with comparable background and training, one is going to be superior to the other. One of the difficulties of having state people review and approve these projects is that they lack practical experience. They may have textbook knowledge, but they lack practical experience.

This is where the consultant has an advantage. Normally his people have considerable experience in design and the follow-up on what went wrong, and didn't go wrong; and he is really in a better position to do a good design job than the textbook person.

Chall: So a lot of field experience would be an important asset to somebody who's working in the government; it's desirable but not required.

Bonderson: Hard to find. One of the problems we've had is that the state and EPA people feel that you can design more precisely than the state of the art really warrants. So they tend to hold back on design, whereas the consultant, particularly if there's a large grant, wants to build in a little safety cushion. That was one of the problems before the grant programs existed--the consulting engineer tried to keep the cost down, and he would cut it a little too close, and that would cause troubles. An overloaded plant normally results in problems.

##

Bonderson: The terms of the permit are end results. Since EPA administers the construction grant program--in effect someone wants to build a plant with a grant to meet these end results--then, they [EPA] get into the review along with the state. There's a great deal of difference in philosophy between the federal act and the original Dickey Act, in that the Dickey Act envisioned full utilization of the waste assimilative capacity. The federal act does not. In fact, the federal act arbitrarily has set the secondary treatment as the base treatment, whether it's needed or not. That is possibly being modified now, because they have built into the federal regulations--the law--that it's possible for someone discharging into the ocean, if they show that a lesser treatment than secondary is satisfactory, they will be waived the secondary requirement for at least some period of time.

Chall: So initially, just the initial treatment was about all that was required, according to the philosophy of the Dickey Act. When you talk about the receiving waters--now you're going to secondary treatment. What about tertiary in some cases? Is that a requirement?

Bonderson: By state requirements, yes, tertiary treatment is being required in a number of instances. There's one treatment plant up at Kirkwood Meadows, south of Lake Tahoe, in the high mountain country, where they actually employ reverse osmosis for mineral removal. They agreed that they would produce an effluent comparable to the stream flow, which is very low in minerals. Very unusual.

Chall: We were also talking about the fact that there were many trained sanitary engineers in the field of health and other areas, that were uncertain whether this was the proper kind of legislation and didn't want to get into it. You apparently felt otherwise, or at least felt it could move in another direction? What was your rationale for going into region three?

Setting the Standards for Region Three

Bonderson: Well, there were a number of reasons. One, it offered a substantial promotion. Two, I wasn't totally convinced that--course I was very young and didn't maybe know as much about what was going on as I should have--it was that bad legislation.

Three, a number of us with the state health department felt that the state health department's future in water pollution control was rather limited. That didn't turn out to be exactly the case. I'd say those three things--the substantial promotional opportunity probably being the most important.

Chall: There are certain times when that means a lot. Can you describe how you got started with your board? The Dickey Act really left it up to the regions to determine how they were going to handle this matter of responding to the discharge. You were hired by your board, so obviously you were in tune, I would guess, with their concerns. Did they check you when they hired you on your attitudes towards administration here--particularly since you came from health?

Bonderson: No, they didn't; I was interviewed, and given a call. I don't know who influenced the board most. The first chairman was a man of the name of Neal Smith, who was the city manager of the city of Santa Cruz. He was active in the League of California Cities, and had been involved with the Dickey hearings to some degree. I would say he was the principal guiding influence on the board, and I suspect it was he who directed them in my direction.

Going back to Neal Smith--this might be of interest--he insisted at the very beginning that the board very specifically indicate to the communities what the state or the regional board wanted them to do. One of the criticisms of the state health department permitting process--and this may be more theoretical than practical --but it was conceivable that a community would come to the state health department with a proposal, and they'd say yes, and sometimes they'd say no, but they wouldn't tell them what to do.

So, they were left wondering really what we expected of them. Some people felt that they'd say no, and then you'd come back and maybe come back with too much, but they wouldn't tell you so. He insisted that our initial waste discharge requirements be on the effluent, so the discharger clearly understood what his limitations were. [thumps desk for emphasis]

Most of the other regions took the Dickey philosophy, the philosophy that they were pushing for, of receiving-water requirements. The central coast is one of the few that went to the effluent limitation.

Chall: And mainly that was because of, you think Neal Smith's--

Bonderson: Because of Neal Smith's influence, yes.

Chall: And there was general agreement among the board members?

Bonderson: Among the board members, yes. From the staff's point of view, and particularly in the Central Coastal Region, it was fairly simple. There were only five board members, and they all lived along Highway 101; so whenever you made a trip, which was quite frequent, you stopped by to have coffee or lunch with them.

Bonderson: So it was easy to stay in tune with the board; you knew pretty much what the individual and the board collectively was striving for.

Chall: What in fact would be the difference, let's say in region three, if you went to the philosophy of the receiving waters rather than effluent limitation? How much difference would that have made, in terms of what you did? Or your standards?

Bonderson: [long pause to consider] The circumstances were such that it probably didn't make much difference. In the early projects, most of them were ocean discharges, and where there was any kind of substantial outfall the obvious answer was primary treatment.

At the time, I wasn't very enthusiastic about ocean outfalls for small communities, because of the poor history of their structural stability. There'd been a number of them built particularly in the central coast, Santa Cruz being a classic case--it didn't even last a year.

So we encouraged only limited outfalls in the earlier years, with intermediate level treatment, not a polished secondary, but a form of secondary treatment. In these situations, the effluent limitation was superior. Looking back upon it, I'm not sure that this was good or bad. [chuckles]

But we were more clearly able to indicate what should be done under those circumstances than we would've been able to have done with the receiving water approach.

Relationships with the State Board and with Representatives of Industry

Chall: At the time, how did your relationship develop with the state board--over the six years that you were there?

Bonderson: I don't quite understand your question.

Chall: What were your relationships with the state board? The regional boards were considered paramount in this act, but there was a state board. What kind of relationships developed with the state board, and with some of the state board people? Was there anything much?

Bonderson: The contact with state board people was somewhat limited. Myself and other regional executive officers would occasionally attend state board meetings, and of course we'd come into a little contact

Bonderson: there. I happened to have quite a bit of contact with Vinton Bacon; I liked Vint; so we had quite a bit of personal interchange.

I would say myself and the other E.O.s were very sensitive about our autonomy--very sensitive. An example would be one of my first meetings with General [Warren T.] Hannum, he was director of--

Chall: He was the state board--

Bonderson: He was the state board chairman, he was director of Natural Resources. I think that was the title of the department at that time. The law was not clear as to the state board having access to regional board documents.

So he proposed legislation that would say, we'd turn over our documents, in effect, to the state board. We met with him and persuaded him, "Hey, this is too much." I've forgotten the specific language. I have it right here. [searches through papers]

He finally agreed with the language. "...file with the state board at its request copies of any official action with respect to any particular case of actual or threatened pollution." So they had to identify very specifically what documents; they just couldn't come and raid us. [laughter]

Well, that's kind of an example of the sensitivity of the regions. The regional executive officers met with the state executive officer on frequent occasions, and other than this sensitivity to autonomy, it went pretty good, with one exception. By 1956 one regional executive officer wouldn't even talk to the state executive officer on the telephone. It was a personality clash.

Chall: That was before you took over.

Bonderson: That's before I took over. That was a personality clash.

A more impersonal example of the sensitivity of the relationship between the state and regional boards occurred just before I came to Sacramento. The state board had just acted on the first appeal of the appropriateness of a regional board action. The issue was the waste discharge requirements for the Hyperion sewage treatment plant serving the city of Los Angeles. The state board found the region had erred, so they modified the requirements. A regional board member told me they were so upset that the entire board almost resigned en masse. In fact, pouring oil on these troubled waters was one of my first activities when I came to Sacramento.

Bonderson: By the way, this was a landmark decision. It started our self-monitoring program. That is, requiring the discharger to take samples, analyze them, and periodically submit the results to the regional boards. This process has some weaknesses, but it has been a very important and helpful part of our program. I consider the self-monitoring program as one of my major contributions to the program. The original act didn't include a provision for requiring self-monitoring (technical reports). After we had been in operation about a year, Cecil Geraghty, Executive Secretary of the Dickey committee, informally asked the regional executive officers if our experience showed a need for amending the act. I felt that not having the authority to require a discharger to file technical reports was a major weakness and suggested this power be given to the boards. I think this amendment was made in 1951 without any controversy. Shortly after the act was amended, I tried to get my board to impose a self-monitoring program on a major industrial discharger, but was not successful. I believe the state board's Hyperion decision was the first time self-monitoring was required.

Chall: What about industry people, like Luther Nichols or William O'Connell? Were they watching you all very closely, were they watching you down there closely and other E.O.s that you know?

Bonderson: Yes, the industrial group, particularly Luther Nichols' group, watched the state board and regional boards very closely.

Chall: How did they do that?

Bonderson: They attended meetings. I would say they had a representative at almost all of the state and regional board meetings for the first couple of years; they were quite active.

The primary watchdog was the Luther Nichols group, the League of California Cities, and the Supervisors' Association. Since they were organized and available, we probably had more contact with them than maybe we should have had. I'm sure that we were criticized for this.

But the sportsmen's group, we did have contact with some of the local sportsmen's groups, but there was really no statewide group that had the resources to call upon. There were no environmental groups at that time; the sportsmen's organizations really were the only ones.

Other than the contact with the local clubs in Santa Cruz, and what-have-you, our access to them was limited. We had access over here (discharger group) and we made use of it.

Chall: Through the years, then, even after you went onto the state board, the Luther Nichols and William O'Connell groups stayed in close touch?

Bonderson: Yes, up at least through the mid-sixties. Then they started to fade away from the picture. We did employ Bill O'Connell as a consultant. There was some concern and some opposition to employing him as a consultant. He was a consultant for the Bay-Delta study that was undertaken by the University of California at Berkeley. I'm glad to say my judgment was good.

Bill O'Connell, amongst the anti-pollution group, was not too favored. His consulting business was primarily with industry, to bail them out of trouble, and he did a good job.

I was convinced that Bill was a professional, competent consultant, and if he agreed to do a job for you, whether it's for industry or the state, he would do the job that you wanted him to do for you--not necessarily being influenced by his activities and associations over here. And that proved to be the case. He was exceptionally helpful in this undertaking; he devoted a great deal of time to it.

One of the things he did on the side, not really as a paid consultant: We had considerable opposition and difficulty getting information and cooperation from industry. He went around the back door and helped us a great deal in that respect.

But he, as a consultant, viewed the needs of the state, the interests of the state, and acted accordingly. He could be an employee or consultant to an industry, and he accepts their viewpoint, their needs, their wishes--appropriately. He was very helpful.

Chall: I guess he died at a relatively young age. He was about sixty-two or sixty-three. It looked as if he died suddenly of a heart attack; I couldn't quite tell from the material that was in his file.

Did you tell me that when you began at region three that you were cautioned by some member of your board that one of your responsibilities was to keep the board out of trouble?

The Cooperative Approach to Solving Problems

Bonderson: That was one of the few pieces of advice, a good piece of advice--"Keep the board out of trouble."

Chall: Is that from Neal Smith?

Bonderson: No, that came from Dr. Kenneth Sheriff; he was the health officer of Monterey County, a very capable and competent man.

Chall: What was meant by that, and how did you deal with that responsibility over the years?

Bonderson: My interpretation, and I think it was right, is trying to work things out with people: come to a compromise, come to an understanding without a confrontation; avoid doing something that would result in people in mass showing up at board meetings, raising a big fuss, or people calling board members individually, complaining, lobbying, what-not.

In other words, don't rock the boat if you can avoid it. This advice is compatible with the philosophy of the Dickey legislation, which is, "Try to do it through the cooperative approach rather than the big stick approach."

Chall: How did that approach work? We talked about this other difference in philosophy, in terms of how you make a decision about waste discharge; what about this one about working things out cooperatively? I know that every time the new legislation was brought up, that this was always what the regional people said--that it has worked.

Bonderson: In the early years it worked quite well. The reason being is that most of the situations we were dealing with were gross. Like the community of Carpinteria, a beautiful beach; the outfall had broken about fifty feet back from the high-water mark. So raw sewage was just running across the beach.

Pacific Grove: beautiful little beach there in the corner. One of the outfalls, raw outfall, about maybe a hundred yards away. If you went down there early in the morning, you could see all kinds of pea-sized fecal particles at the high-tide line. I've lost the picture, but it was just priceless--a toddler reaching for a tampon as the mother grabbed for the child.

These kinds of things the community recognized were problems. The dischargers, they didn't like this either. There really wasn't any controversy: we want to do this, we're going to do it soon as we can.

Industry, at least in the central coast, I would say, we didn't have what would be called a gross situation, except for the sardine canneries on Cannery Row. Fortunately, sardines went away and solved that problem. [laughter]

Bonderson: Statewide, that was pretty much the picture. I would say, thanks to the Department of Fish and Game, the oil refineries weren't gross. They weren't particularly good, but they weren't gross.

There were some industrial problems; one of them was Modesto, Stockton--

Chall: Canneries?

Bonderson: Canneries.

Chall: How about lumbering?

Bonderson: Little thought was given to lumbering in those days.

Chall: You were concerned with human waste primarily, in the first instance, and canneries.

Bonderson: Canneries or oil refineries, this type of thing. Our time was devoted to the gross, which the people of the state as a whole recognized, and the individual communities recognized; so you could move.

The San Francisco board, which had as many major industrial discharges, or more, than any of the regions, they deliberately took a rather soft, slow, cautious approach. This was my impression, which again, I think, was the Dickey philosophy.

Probably, for the circumstances it was the best thing. One of the reasons we had the Dickey legislation, as I understood it, is that the state health department was moving into the control of industrial discharges, or trying to.

There was some question about their authority, so they proposed legislation. The state health department had taken a pretty rigid position, and a pretty aggressive position, with communities.

When industry saw this proposed legislation, and looked at what we were doing with the communities--"let's hold up there and look at this," so the Dickey committee was formed.

An overly aggressive approach at that time probably would not have been too successful.

Chall: I think it's Henry Ongerth who told me that with the Dickey legislation industry bought about twenty years of good time; and that all in all it probably didn't damage the waters of the state too badly over those twenty years. That's what he thought generally regarding the purport of the Dickey legislation and the achievement.

Chall: I did ask you during our initial conference, but it isn't on tape and we might as well set it in here, whether there was any frustration at the regional level about inability to enforce control. You did say that nobody was concerned about control in those days.

Bonderson: That's not true. No, I indicated that some people thought that this was not anti-pollution legislation. Most of the regional E.O.s had limited knowledge of the history of the Dickey legislation. This was true of most of the original regional board members. They interpreted the legislation, and their goal was to clean up California, because the state health department had failed to do so.

I think that was not a valid position, but that was the general attitude of regional board members and their staffs--that they were to do the job that the state health department had failed to do. You see the different viewpoints?

I did not take that position, because I was aware of the state health department and what they had done. During the early years, there was not frustration, generally speaking, about enforcement. It appeared to be a weakness.

There may have been individual cases where the region felt it was needed, and for some reason or another felt they were not in a strong enough position.

One of the comments I made the other day was that the regional executive officers were essentially all engineers.

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Bonderson: The state and regional boards had limited access to legal counsel from the attorney general's office. The enforcement mechanism that was provided for in the original Dickey Act was the administrative hearing process, where an administrative hearing officer from general services or somebody, would sit as a judge, and carry on for them.

We, not being legal people, and having limited access to legal counsel, were afraid of the complexities of this type of approach. Consequently, very limited enforcement was taken. Looking back upon it, I think it was probably a better process, at least as good as the cease and desist procedures we have now.

But we didn't make much use of it. In retrospect, theoretically the enforcement powers may have seemed weak in that you had to show a discharge was in fact creating a condition of pollution. Since we were primarily dealing with gross situations this should not have been a problem. Today, circumstances are such that the Dickey enforcement provisions would be totally inadequate.

II EXECUTIVE OFFICER, STATE WATER POLLUTION/WATER QUALITY CONTROL BOARD, 1956-1967

Chall: When you moved on as executive officer of the state board in 1956--that came about when Vinton Bacon went off someplace else--how did you happen to get that appointment? You applied, of course?

Bonderson: I applied and I was interviewed.

Chall: By the state board?

Bonderson: By a committee of the state board. For why I do not know, but there was limited competition. I can only recall two other people who were interviewed. There may have been others, but I've forgotten.

Chall: They may have been screened out, too, before the interview.

Bonderson: They could have been, yes.

Chall: When you came in, what was your staff? Was it you and one or two secretaries? Was that still a small staff?

Bonderson: Just on my appointment. The only thing I've heard about it was that one of the other competitors, and he was fortunate he didn't get it, was very close in the committee's appraisal. But since I was in the system, they tipped the scales in my direction.

The fellow happened to be Raymond Stone, who I knew quite well and worked with at the state health department. He subsequently became the executive officer of the Santa Ana Regional Board shortly thereafter. Then he joined the firm of Neste, Brudin and Stone, Inc., and has done very well. If he'd come to Sacramento, he might not have done as well. [laughs]

Bonderson: The staff, when I joined the state board, consisted of myself and two, what were called assistants to the executive officers. We kind of twisted the law to bring in two people that really we weren't supposed to have, and two or three clerical. That was the state board staff.

Chall: These assistants were technical people, or what?

Bonderson: No, one of them was Chuck Sweet. I don't believe he was a graduate. He spent his early years as a surveyor on the Metropolitan Water District project out in the desert. An exceptionally well organized and exceptionally capable individual.

He turned out at least three times as much work as what I would consider an average for a state employee. You could indicate to him very concisely, "Here's what I want," and it was done. Very well organized, and very capable.

Chall: Was he already on Vinton Bacon's staff?

Bonderson: Yes, he was on Vinton's. And the other fellow was Bob Cousins. He came to the state board from the Department of Corrections. He was a mechanical engineer, but no background in water pollution control. So that was the staff.

Getting Started: Underlying Philosophies and Relationships

Chall: And you were utilizing your full budget, I assume. [chuckles] Having gone through the system, as it were, at that time, did that make it possible for you to get along well with the E.O.s in the regions, or did you begin eventually to find that they had the same attitudes toward you as their state executive officer as they would have towards anybody else who'd been at the state level? Still, the autonomy a crucial matter.

Bonderson: I think my personal relationships with the other executive officers were really quite good. Part of the difference is that Vinton Bacon was a very bright, very aggressive type of individual. I'm not nearly as aggressive as Vinton Bacon, so your day-to-day working relationships consequently were much smoother.

At the time, I felt that there should be more direction from Sacramento than there had been up to that point. This was beginning to be recognized [phone rings] by the state board. [brief tape interruption]

Where was I?

Chall: You said that you were beginning to think that the state could give more direction.

Bonderson: The directors--the members of the state board--from the very start felt this way, that there should be more guidance by the state board. They should be more influential, with the appointive members taking the more passive position.

Even the appointive members, by '56, began to feel, yes. I cannot define why this feeling developed. I say more direction. Really maybe a better terminology is--I'd still like to see this--more cohesiveness, more of a statewide feeling of working together rather than thinking individually.

But it was generally recognized there should be more guidance given to the program, and the state board taking a more aggressive role than they had up to that time.

Chall: In what areas? Was it setting standards? What would it have been?

Bonderson: The best I can answer is just giving more general direction to the program. I'm sorry I can't more precisely define that.

Chall: It probably will come out in what else you say. But you went there with that philosophy, so that you must have felt to some degree a desire for it or a need for it even in your region.

Bonderson: Region, and statewide. Now part of this was stimulated by my frequent informal contacts with Vinton Bacon, I suspect.

Chall: He, then, was probably chafing a bit?

Bonderson: Right. At the start of the program he accepted the passive role, with the heavy emphasis on regional autonomy. But as time progressed, he began to develop this feeling for need for a more aggressive state board, with, I suspect, some proddings from the directors. Looking back, there is no doubt in my mind that the state board had a great deal more authority than they chose to exercise during the early years.

Chall: Yes, those are the five executives of the departments.

Bonderson: Yes.

Chall: They did always play a rather leading role in this movement toward more control, more direction.

Can you describe a little what you felt in starting and working at the state level, in relationship with the board?

Bonderson: This was quite a change. First of all, as I pointed out previously, there were five members of the regional board, and when you made a trip it was very easy to drop by and say hello. We had fourteen state board members, with five here in Sacramento, the rest spread out statewide.

So the opportunities for informal contacts were quite limited. That immediately makes a change. The activities of the state board are quite different from the regional board activities. This was a major change an adjustment for me. [long pause]

It was complicated by the fact that, by this time, or shortly thereafter, there was a split on the board. Appointive members over here, the state directors over there.

The voting doesn't show this, but there was beginning to be a split, with the influence still with the appointive members. When it came to state board administrative affairs my easy contacts were with the directors, but the power was diffused throughout the state in the appointive members.

Generally speaking, I was in fairly frequent contact with the chairman. The chairman, after General Hannum, was always an appointive member, and I believe the vice-chairman was always a director.

So on administrative matters and what-not I'd be in contact with the vice-chairman, and when Swede [De Witt] Nelson was vice-chairman I would frequently contact him. He was an easy and good man to work with.

But normally, well, I'd have contact with the directors, but I really looked to the chairman.

Chall: Who was it at the beginning? I don't think I have all those persons. Mr. Rawn and Mr. [Irving] Goldfeder are the only names I have, and I didn't go back to check the earliest ones.

Bonderson: It was initially Rawn, and we goofed up in our publication here-- A.M. Rawn with periods--and this upset him. His name is AM without any periods. Capital A, capital M.

Chall: What did you call him?

Bonderson: "Ay-Em." Most people weren't allowed to call him "Ay-Em." He was Mr. Rawn.

Chall: He represented the--

Bonderson: Chief engineer and general manager, L.A. County Sanitation Districts. A very forceful individual.

Then came [Paul] Beermann, after Rawn, and then Goldfeder.

Chall: These were in the days when the appointments were for what, four years?

Bonderson: Four years, yes.

Chall: Two terms, and then they were supposed to presumably go off? Except for a long time, that wasn't really paid much attention to.

Bonderson: I don't recall there ever being any two-term limit.

Chall: As chairman, or--

Bonderson: Oh, oh, the state board in fairly recent years adopted--no, it was just in a procedural manual--that the regional board's chairman should not serve more than two years. We had some instances where the regional board chairman just carried on for years and years and years. Not particularly desirable.

Chall: Mr. [William] Warne told me that sometime early in Governor Brown's career they began to look at the people who were on the boards, regional as well as state boards, and noted that they had been on longer than their term should have allowed. So they began to check into this and they saw to it that there were other people appointed.

I think he indicated that you did occasionally help with the appointments to the board--maybe state board and regional boards. Do you recall any of that?

Bonderson: I was never involved with appointments to the state board. Off and on I've participated in helping screen, select regional board members.

Chall: In terms of your relationships as a state executive officer, did you come into contact with Governor Knight at all? His administrators?

Bonderson: With Governor Knight--

Chall: He was there from '53 to '58.

Bonderson: The only contact I had with Governor Knight--there was a luncheon. I believe it was with some state board members, some regional board members and some of the regional executive officers. I

Bonderson: am a little fuzzy on that. And the purpose of the meeting was, say, a discussion relative to a proposed pulp mill to be built near Red Bluff.

There had been a complaint that because of the regional board, the plant did not locate in California, and the governor just generally talked about the subject. He did not in any way say, "Hey, you guys, straighten up." [chuckles] Nevertheless, the meeting was a general hint.

Chall: I see [laughs], as a message--

Bonderson: It was a message, but very appropriate. Nothing, I would say, inappropriate or questionable at all about the meeting.

Oh, yes, I did have one other contact with the governor. This pulp mill thing stimulated a study of the pulping potentials in California. That started before I came to Sacramento, but it was finished while I was here.

So the logging association had a big conference here in Sacramento, towards the end of this study, and I was asked to be a speaker. And I was told, "so many minutes," and I was within two or three minutes of being finished, and the guy with the hook started to make gesturings. In fact, they actually had a guy with a hook. [laughs]

Chall: A hook?! [laughs] I know about stopwatches, but hooks?!

Bonderson: Well, the old vaudeville hook. [laughter]

Chall: Dear me!

Bonderson: And he obviously wanted me to stop, and by gosh I still had time. I wasn't going to stop, so I finished. So the governor cooled his heels until I finished. He tried to get me to shut up because the governor had showed up. [more chuckles]

Chall: So he kept his hands out of this field, more than Governor Brown?

Bonderson: My impression, and what I heard, is that the Knight administration had very little contact and very little, you might say, influence on the departments; they pretty much ran themselves.

I had heard that at the governor's council--as it was called at that time--the governor very frequently wouldn't show up. We didn't attend those meetings, so I have no first-hand knowledge.

Chall: That was just his way of operating.

Bonderson: But, as contrasted to today, through the agency secretaries, there wasn't nearly the coordination, direction, et cetera, from the governor's office.

Chall: Did Mr. Rawn, as chairman, spend a great deal of time here? Did you have regular working appointments with him? How did you work with him?

Bonderson: He spent very little time here in Sacramento. In fact, other than attending board meetings, he did not devote much time to the program. He would occasionally--as he did--give this speech at the Water Pollution Control Federation.* He would occasionally attend a meeting, and occasionally--maybe I should say rarely--on a couple of times he attended legislative committee hearings, but only a couple of times.

The pattern was for me to travel to L.A. and meet him. When he was still working, the meetings were pretty concise, pretty much to the point. These generally were arranged a week to ten days in advance of a board meeting, to brief him on the agenda.

I'm sure that he studied the agenda, because he did run a good, orderly meeting. After he retired, I would visit his home, and it was more leisurely. He would spend quite a bit of time chatting about the agenda and things in general.

Chall: Did he take a position on certain issues that were coming up? Did he have strong ideas about the board's activities, and what you were supposed to do as an executive officer? Did he direct you or the board in any way?

Bonderson: That's hard to describe. He didn't say, "Thou shalt," that type of thing. His personality, his bearing, well, you'd see him and you'd think, "Well, there's a Wall Street banker." A large man, very dignified-looking man, and his tone of conversation, et cetera--a man of considerable bearing, dignity.

So, in his discussions with you, you obviously got the message. And he would lead you without much giving direction. He was in, and I don't know how he did this, but he was in real close tune with the appointive members--their attitudes, their feelings,

*"Useful Water for California, A Reappraisal."

Bonderson: their philosophy. How he did this, I don't know. He was also well aware of the directors' positions, and he would guide, and lead you to the way he wanted things to go.

Chall: Did that ever put you into a bind with respect to the directors?

Bonderson: No, I wouldn't say so. You had to very careful; you had to ride the fences in that area very carefully. But I would say, never in a bind, or cause any problems,

It was a little awkward, in a way. At the time it was not as well recognized as maybe it should have. L.A. County Sanitation District was the biggest polluter in the state of California. In fact, it was so bad, I deliberately never went out to his plant. I went to his office; his office was downtown. His plant, the treatment plant for the L.A. County sanitation, never went there.

Chall: How did the region there get along with that problem?

Bonderson: Well, the region at that time thought it was all right.

Chall: Maybe it was.

Bonderson: In hindsight it wasn't so good.

Chall: So a chairman could have quite an infleunce, a subtle influence, or not so subtle, it depends. Now how about the others?

Bonderson: There was quite a bit of committee activity. The committees-- and Rawn would appoint the committees, or whoever was chairman-- and of course the committee makeup has quite an influence on how things go.

Chall: What kind of committees were there?

Bonderson: Occasionally a committee would consider legislation. There were committees on developing policy. As I recall, in the early stages there was a committee on the San Francisco Bay study.

But they were appointed, generally speaking, for a specific topic or subject, to look into it in more depth than the board as a whole could and make a report back to the board.

Generally speaking, the committee memberships had about the same balance between appointive and directors as the full board. But by structuring the committees, this I'm sure influenced what came out of them. So you did have contact with members, through this committee activity,

Chall: Was there a difference in Rawn's, Beermann's, and Goldfeder's approaches, in terms of being chairman; did you feel as comfortable with one as the other?

Bonderson: Well, I felt more comfortable with Rawn. Rawn is one of the fraternity. Goldfeder, a businessman, a very smart and very shrewd businessman with Hunt industries. He started out, apparently, as a buyer or an inspector in the tomato fields, and worked up through vice-presidency of Hunt. So obviously, very bright. But his thinking, his background, quite different than myself or Mr. Rawn. He had no water quality experience whatsoever, which is true of most of the regional board members.

And this has always fascinated me, and I think is a tribute to our governors, how quickly lay people can pick up what's going on, and zero in on the principle or the policy involved, and not get all embroiled or enmeshed in technical details, which the staff has a tendency to do. Very shrewd people; they've done a good job, and they're still doing a good job. They're a good forum for hearing situations and making good decisions.

Organizing the Board Meetings

Bonderson: By the way, one of the things that I think made the program so successful is Frank Stead.

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Bonderson: He, for the first meetings of the state board, developed the agenda folder approach, with his summary, backup material; recommendations, what-have-you. Very well-organized, well-structured meeting format, which all of the regional boards immediately picked up and used.

By contrast, even after '56, I went to a state park commission meeting. Leo Carillo just fascinated me. Oh, he was a fascinating man.

Chall: He's the actor?

Bonderson: The actor; he was on the commission. As light on his feet at seventy years old as a child; just like a cat.

Bonderson: Well, anyway, what a disaster! They gathered around the table, they had no agenda, shuffling sketches around, pieces of paper, chaos! And coast commission meetings that I've been to, regional ones, are almost as bad yet. Very disorganized; I don't know how they ever got any work done.

Chall: I wonder too.

Bonderson: We have a process that's been followed all these years. Where Frank picked it up I don't know; he initiated this, I think, very effective way of running the meetings.

Chall: It also helped the board members to know what it is they're to consider.

Bonderson: [emphatically] Oh, yes. Although at times it was pretty discouraging. I'd just sweat and slave and the girls worked late at night, getting out an agenda, and then somebody would come to a board meeting and open his envelope for the first time. That did happen occasionally. [laughter]

Chall: I know the feeling. I'm just trying to establish you in this state office and get the feel for what it was like. Tell me about Mr. Beermann before we go on.

Bonderson: He was an appointive member, and I believe his title was director of utilities for the city of San Diego. A very precise, German engineer.

Chall: During this period, did it have anything to do with these appointed chairmen, or was it just something that was occurring that brought about this split that you mentioned between the appointive members and the directors? How did it show itself?

1959: Background of AB 1974, and New Directions

Bonderson: Well, there was a minor split right from the very beginning. I would say that it rocked along fairly well until, oh, '57. And the sportsmen's groups with, I suspect, some urging, aiding, and abetting by the Department of Fish and Game, through Seth Gordon and his staff, claimed that we weren't doing the job we should have been doing.

This concern by this sportsmen's group stimulated the [Charles] Meyers hearings and subsequent legislation. This irritated, particularly the regional E.O.s and their board members--probably

Bonderson: to a lesser extent. And I think this irritated the appointive state board members, because, I remember, one of the things that they kept pointing out to Seth Gordon and his staff, and raising, is that the Dickey legislation clearly directed the department, upon finding a case of chronic pollution, to call it to the regional board's attention. Never once, since 1950, did the department make such formal representation to the state or regional boards.

So this started, I think, more friction between the two elements--that that's what stimulated it. And, of course, the directors still pushing for a stronger state board, even though the appointive members were headed in this direction, but not as forcefully or as far as the directors.

But this irritated them; all this uproar by the sportsmen's group, stimulated by the department, opened the wounds a little bit.

Chall: And how did you track through that?

Bonderson: Rawn's position--and I think a good one--was that you don't lobby legislation; he was violently opposed to state departments lobbying for legislation. Although he did a masterful job of lobbying for legislation [laughter] protecting the L.A. County Sanitation District. This was a no-no.

You were to be available to the committees and to provide them with facts and information. In fact, I'll never forget one of Carley Porter's hearings later on. They had some controversial legislation and after talking to Rawn I went to Carley's office and said, "I'll be there to provide information and facts, but we're not here to lobby or try to influence you."

So Carley Porter called on Harvey Banks to come up and testify, and as Harvey was coming up the aisle, "Just a minute, Mr. Banks. You know, I'd like it to be known, and it sure is encouraging, that we have somebody in the audience here who isn't here to lobby but to give facts and information; we're sure glad that Mr. Bonderson is going to do this. All right, we'll hear from you now, Mr. Banks." [laughter]

So, we attended several hearings. We put together--and I sure wish we had some copies of it--some reports to the Meyers committee. And the only time I really got mad--had a little friction with Jack Harrison, executive officer of the San Francisco regional board; he'd been asked by the Meyers committee to testify, and he wasn't going to. So I took him out in the street and I was

Bonderson: about ready to take him on. [chuckles] I just almost forcefully pushed him up to the podium. He did finally testify.

Chall: To give facts and information? [chuckles]

Bonderson: Well, that was his problem; I don't remember what he said. But primarily what we were trying to do was give them facts and information.

Chall: When I was going through the O'Connell papers, relating to this AB 1974, which is what we're heading into now, it seems that one of the problems was that there were some great fish-kills along the coast, and the Tyee Club in San Francisco was concerned that the salmon weren't running. They claimed that it was pollution that was killing the fish, and I remember pictures from the newspapers in the O'Connell material showing fish lying dead on the beaches.

But it was the information about the fish-kills that seemed to dominate; that, of course, was around 1958-1959. I do recollect that the fish and game people, the sportsmen, were really behind this legislation. [searches through papers]

So I was under the impression that this had suddenly occurred, and that's why the sportsmen were there--

Bonderson: No, I would say that this was a gradual build-up. Now, there may have been some fish-kills that finally "broke the dam."

Chall: "Die-off of fish" is what they called it.

Bonderson: San Diego?

Chall: I'm not sure that it was that far south, I can't tell you that. Maybe I have something here in my papers.

Bonderson: No, I think San Diego was the leader.

Chall: I thought this was around here, at least San Francisco Bay and north coast.

Bonderson: I don't recall a fish-kill in the north coast. There have been fish-kills in the Carquinez-Suisun Bay area, and it may have been particularly bad that year. By the way, that's still occurring; we're starting another investigation and trying to find out why.

Chall: Here, I have in my rough notes from the O'Connell papers: touching off an examination of pollution--that was in 1957--was a recent major die-off of fish in San Francisco Bay. Seth Gordon appeared

Chall: before the fish and game and public health committees of the assembly. The general feeling was that the Dickey Act was ineffective. The law aids and abets polluters who don't want to cooperate. The regional board set standards that write off certain sections of the bay water. We need to control raw sewage in the bay.

And there was a series of articles in the Chronicle and the Examiner on pollution and its control--or the lack of it--and the Dickey Act, and I remember seeing compilations of this by somebody named MacDonald. I think that he was an Examiner reporter.

So this is what I was under the impression had set off the whole 1959--

Bonderson: That probably set it off--

Chall: Because this was 1957.

Bonderson: It was growing, the feeling.

Chall: And primarily through the fish--

Bonderson: Primarily through the sportsmen's organizations. I don't know whether they're still this active, I never see them anymore. The local clubs were very active and they had a statewide organization that was very active.

Chall: They preceded the activities of the Sierra Club and the environmental defense groups.

Bonderson: Yes, very much so. This focused on the presumed weakness of the Dickey Act, and it was the start of tightening it up, and giving a more aggressive direction to the program than the original Dickey legislation--no question about it.

Chall: I sent you these slip bills [AB 1974] and I made some notes. Apparently this attempt to tighten up the Dickey Act was a pretty strong attempt and it took some behind-the-scenes battles, I understand, and secret caucuses, before the legislation came out quite well amended.

But according to one of the articles I read in the O'Connell papers, at one point it looked as if the Meyers bill would never see the light of day until after these secret meetings had taken place. The only people that I could tell, who were on the Meyers' side were the sportsmen's groups and the five department heads.

Chall: But to George Miller, Jr., the CMA--Nichols--the city of Los Angeles, and various industrial people, it was unacceptable to them, totally.

Bonderson: Well, the initial bill. But then there was the AB 1974, which did indicate that the boards, both the state and regional boards, should be more aggressive. I've interpreted that we should push toward more enforcement. As I recall, there'd only been eight enforcement actions taken up to that time, with seven of those within the last six months or so, see? Very limited enforcement.

We've talked already about the cumbersomeness. The Meyers bill did compromise and give the regional boards the cease-and-desist order authority, which is a rather simple, straight-forward approach. As I recall, the industrial group felt they had out-smarted everybody, that the cease-and-desist order technique was used by the federal government, and was not particularly effective. So they thought they'd come out winners. [chuckles]

Chall: Did you find it effective?

Bonderson: I think the cease-and-desist order, yes. In the early years, it was misused some.

Chall: How do you mean?

Bonderson: People asked for cease-and-desist orders so they could get a grant.

Chall: That's because you always had to follow-up with a hearing, didn't you? Did you have to follow a cease-and-desist with a hearing?

Bonderson: No, well, it'd be adopted at a board hearing or at a meeting--the difference is. But the high grant priority projects were those who had orders against them. So people would, there's no question about it, say, "Hey, give us a cease-and-desist order so we can get a grant."

Now the cease-and-desist order, I think, over the long haul has been quite effective. Number one, administratively, it's not as cumbersome as the administrative hearing officer approach. You only have to show, at least now, I don't recall what it was then. Maybe I better look at it before I comment. [perusing silently] Yes, I was right.

Under the original provisions, if there was a violation, you had to hold a hearing and show that pollution or nuisance was resulting or threatened. With the cease-and-desist, all you have to show is that the requirements are being violated; you don't have to demonstrate that pollution or nuisance is in existence. Which would be in some instances, maybe a fairly cumbersome analytical technical process.

Bonderson: The cease-and-desist order, after the Porter-Cologne [Act], became even more effective, because with Porter-Cologne, there's a provision that if further connections to a system would aggravate the pollution problem, they can prohibit any additional connections. This is a very, very powerful tool, if a community wishes to have any construction. Very powerful.

Plus, industry, later on, not initially, didn't like the stigma of the cease-and-desist; some communities didn't like the stigma of the cease-and-desist if they weren't looking for a grant. So I'd say it was effective.

Now, the other things in the bill, though, that were also effective, that gave policy directions to the board. One of them is that the state is to have a policy that the disposal of waste shall be so regulated that the highest water quality consistent with maximum public benefit--that wasn't in the original Dickey--

Chall: Are you reading the material that I sent you?

Bonderson: Yes, this is the one that passed.

Chall: Oh, you're reading the one that passed, because some of that went through so many changes about the beneficial use of waters.

Bonderson: It's no longer a right to discharge; see, that changes some thinking. And that the boards did not have to utilize the full waste assimilative capacity of the water. This all indicates tightening up.

Chall: Some of those were very hard fought; I can see running through here the way the language was changed from the original bill that went in in March, 1959, until it finally came out--all the changes that were made.

Some of it, dealing with just this language about the statewide policy control and the final consideration of the beneficial use of waters, these were always the great battles.

But with it all, as you say, the state board was given somewhat more control--

Bonderson: And the regional boards.

Chall: Yes, because of cease-and-desist orders.

Bonderson: And the fact that they didn't have to authorize the full waste assimilative capacity, and highest water quality consistent with maximum public benefit.

GEORGE MILLER, JR.
SEVENTEENTH SENATORIAL DISTRICT

COMMITTEES
RULES
FINANCIAL INSTITUTIONS
EDUCATION
NATURAL RESOURCES
FINANCE
FISH AND GAME

CALIFORNIA LEGISLATURE

Senate

file

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August 19, 1960

Mr. Robert C. Ayers
Executive Secretary
Water Pollution Control Advisory Board
Public Health Service
Washington 25, D. C.

Dear Mr. Ayers:

I acknowledge your kind invitation to "join us on a boat and air tour of installations which currently are discharging untreated, or inadequately treated, sewage into the Bay". You also invited me to a no host dinner at the St. Francis Hotel concerning the same subject and at which time, if I could adjust my busy schedule, we could discuss and better appreciate our mutual responsibility for solving the pressing problem of pollution of our Nation's watercourses.

While I appreciate the generosity of your invitation I can see that no good purpose will be served by touring either by air or by boat Federal installations which are dumping untreated or inadequately treated sewage into the Bay. The State of California has been and is proceeding to eliminate this type of discharge. I see no reason why the Federal Government shouldn't fall into line and I do not see any reason for me to look at this sewage or to engage in any dinner palaver. If you are doing it, stop it. If you are not, what the hell is the point in calling the meeting. I see no reason to make a production out of this problem. If there is anything I can do to help however, I trust you will call on me.

Very truly yours,

GEORGE MILLER, JR.

CC: Governor Edmund G. Brown
Mr. Paul R. Bonerson
Mr. Paul W. Eastman

Bonderson: These are directives that tighten up more, and that pattern is continued over the years, the tightening up.

Chall: What about the addition of the two members, the public member and the member who represents conservation and recreation; did that have any effect, you think, on the board?

Bonderson: It's hard to tell, but my impression is that just the two more members there didn't make a drastic change. Their very presence gives some impetus to these other policy changes in the act.

I would say the biggest benefit was to the state and regional boards. Many of the people that were appointed were convinced that the boards didn't do anything; and as soon as they were on the board for a couple of months, their attitude, their position changed very drastically. They recognized that the boards were trying to do, and were doing a pretty good job.

So this gave us a link of communication with the conservation groups, or the sportsmen's groups, that apparently wasn't functioning too well, and that instead of our being looked at as bad guys, there was a switch to our being considered good people.

And for quite a number of years, the sportsmen's groups were very strongly--after this--strongly supportive of the regional board's programs. So I'd say we profited from it.

But part of it is that the policy part of the bill--a response to the hue and cry that was raised during the hearing process--no question that this impacted, influenced board members.

Chall: Let's see, we want to break for lunch for a few minutes.

[interview resumes after lunch]

Chall: You managed to chew that [small cigar] down pretty well in the course of a few hours.

Bonderson: Yes, unfortunately I can't smoke. [laughter] I used to smoke ten or fifteen of these a day.

Chall: I had a feeling you probably had been a rather heavy smoker.

Bonderson: I smoked so much I burnt my mouth, so I had to quit.

Chall: I guess that's one of the no-no's with heart problems anyway, isn't it?

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Chall: We are considering now the effects of the 1959 legislation, AB 1974. Why do you think that Meyers was interested in this problem, or concerned about it? What do you think was the reason that he was approached to carry the bill? He did have a position of course on that water subcommittee, but did you watch him at all in those hearings to see what kind of a chairman he was, where his power lay, or anything of this sort?

Bonderson: Well, he was on the committee, the water committee, and I have no knowledge of how he got involved with this. It could be that the attention was beginning to be focused on the problems of San Francisco Bay.

For some reason or another, from the beginning of the program, well even before the beginning of the program, the state health department, in '46 or '47, adopted a very strict regulation about no more discharge of raw sewage into San Francisco Bay.

But San Francisco Bay has been a special water pollution problem as far back as I can remember, and it still seems to be. So there's something quite unique or different about San Francisco for some reason or another. Then with Mr. Meyers being from San Francisco, this may have stimulated his interest in this particular subject.

Chall: George Miller, Jr. It was in 1963 that his measure of the many measures that were put in about pollution control was passed. Did you ever have any contact much with George Miller?

Bonderson: No, I had very limited contact with assemblyman--no, he's--

Chall: Assemblyman? No, he was a senator.

Bonderson: No, a senator, that's right, Senator George Miller. No, I had very little contact with him.

Taking on a More Vigorous Control Program: Governor Edmund G. Brown's Directives

Chall: Let's get to the meaning of the 1959 bill itself, because it seems that, as you say, the state and regional boards were given more power. There's a letter here from William Warne in January--well, I think, before I go into that we'll take up Governor Pat Brown's speech.*

*"Remarks of Governor Edmund G. Brown," prepared for (but not delivered in person to) the joint meeting of State and Regional Water Pollution Control Boards, October 14, 1959.

Chall: On pages five and seven it seems to me that he's giving directions to the boards. It would seem that he felt that the 1959 legislation really moved the boards in taking very strong directions. I just wondered whether you all felt this way or whether it actually came about. But he said that, "the state board is now directed not only to formulate statewide policy, but to adopt this policy." And then he talks about the formal cease-and-desist orders.

The regional boards, this is the fourth paragraph [page five], "...now have assurance that their requests for waste discharge reports or technical reports will be honored, since failure to do so is punishable as a misdemeanor." He talks of his appointment of board members. He would like to see, specifically, "better methods devised for administering the law...study and development of good water quality criteria..." That's the first time that water quality has been talked about that I've seen. I'm sure it must have been discussed. He goes on about the specifics of what he'd like to see [page six]. "Refinement or development of administrative procedures aimed at providing better coordination with the other state agencies...More use of planning, investigative and technical services of the other state departments, particularly the Departments of Water Resource, Public Health, and Fish and Game.

"My analysis of the recent legislative changes leads me to conclude that a more vigorous program is needed, and there should be a swing from pollution abatement to more emphasis on preventive control...I believe the approach should be firm."

This is page seven, "When the regional boards are working on a specific pollution problem I expect them to exercise their best independent judgment. However, such case by case action on the part of the regional boards should be within legislative policy and within and guided by state policy enunciated by the state board.

"For obvious reasons I believe that it is only proper that I place responsibility for the general administration and policy guidance of the pollution control boards in the hands of the State Water Pollution Control Board."

Now, that's pretty strong, and I'm wondering to what extent you and the state board, and the regional boards, accepted this and acted on it.

Bonderson: First of all, I can't recall ever seeing this.

Chall: Well, as I say, he was supposed to have given this speech at a meeting. He did sent it to every member of the state and regional boards, and it probably got into your office. That doesn't necessarily mean that you would have seen it. It's strong.

Bonderson: I would say, for whatever his reason, that what he was asking for, an attempt was being made to comply with it. Because much of this is rephrasing of what I would say is in the bill, and what the interested anti-pollution people were asking for.

The regional boards did move into a more strict, more vigorous control program and enforcement program, I don't think there's any question about that.

The state board did undertake policy development, and unfortunately I don't have copies of that, but there was activity in adopting statewide policy and I can't say how effective or how good it was.

There was an attempt made to achieve better coordination and working relationships with the departments. I don't think it was too successful.

Chall: Those five departments?

Bonderson: Our day-to-day working relationships really were pretty good anyway. On specific cases, particularly with the Department of Fish and Game, there were frequent disagreements. If ten was good, five was better, and if you'd start with five, two-and-a-half would be better; always asking for more, which they are still doing.

And frequently the boards would not feel they had the facts to support their case. We attempted better coordination by creating--all I can think of is "Iswig" [ISWG] [laughs]. I can't think of what it stands for.

Chall: It stands for--Frank Stead told me about it. Here it is: Interagency Staff Working Group. Bonderson, Stead, [Arthur] Innerfield and [David] Joseph. I know who Bonderson and Stead are. Innerfield represented resource agencies--

Bonderson: Innerfield at that time was with the Department of Water Resources.

Chall: And Joseph?

Bonderson: Joseph at that time would be representing the Department of Fish and Game.

Chall: So you've got health, fish and game, and water resources.

Bonderson: And the state board.

Chall: Who was Jeff Mugford? He apparently coordinated this group.

Bonderson: Jeff Mugford--he was either the director of the Department of Finance or a deputy director. He really was not involved.

Chall: He didn't set it up, or he didn't coordinate it?

Bonderson: No, he didn't do any coordinating; it may have been at his specific request that we do this. It wouldn't surprise me, because the Department of Finance kept hounding us--and still hounds us. When you'd go out and take a sample, it should be a sample that's good for water resources, fish and game, public health, and the boards. And it's not quite that simple.

So they pushed us to try to do a better job of coordination. And it probably was at the Department of Finance's request, as a follow-up to this, that we do this.

Chall: How did that work? Can you describe how ISWG functioned, and for how long?

Bonderson: In various forms it functioned until, I believe, last year and they finally gave up.

Chall: That's twenty years of functioning.

Bonderson: In the time that I was involved, I think I would have to admit it wasn't very effective. In effect, what we did might have helped the fish, and this is somewhat of an oversimplification. We all indicated what we were going to do, and we all agreed that what we wanted to do was fine. No one was going to step on anybody else's toes.

Chall: I think it was Frank Stead who told me about ISWG and I think he indicated that it had been set up so that there wouldn't be infighting among the department heads at the state board level--at their meetings. That wasn't the purpose of it?

Bonderson: No. The purpose of it was to coordinate our field investigations, field studies, to bring about better coordination, elimination of duplication, and hopefully, on occasion, by expanding something a little bit, it would provide a considerable amount of benefit to another department.

It was of some value, but I think fairly limited.

Chall: It sounds like a good system, like a good idea, for coordination.

Bonderson: I would say maybe one of the benefits that came out of it is that we had a better knowledge of what the other department was doing. Which in turn may have resulted in some independent, individual communications and coordination that might otherwise not have occurred.

Bonderson: But its purpose was not to eliminate in-fighting at the board level.

Chall: Do you want to go on with Governor Brown's directives?

Bonderson: We did initiate policy adoption and formulation. ISWG, we covered that. We didn't really specifically, I don't think, do anything as relates to taking cognizance of the California Water Plan.

But this was the beginning, about this time, of recognizing the need for a broader control program than just sewage and industrial waste. This is one of the earlier expressions of that need.

Specific actions as relates to the water plan did come later, but not at this stage. The boards, the regional boards, did issue more restrictive waste discharge requirements and did carry out a more detailed surveillance and enforcement program, through the cease-and-desist order process.

The failure to provide discharge reports being subject to a misdemeanor charge I'm not sure had much of an impact. One of the problems was that it is difficult to persuade district attorneys to prosecute such a misdemeanor charge. As a result, little use was made of this provision.

I don't think we were able to do anything about a better method for administering the law, other than the use of the cease-and-desist.

I don't think there was a substantial change in the use of the other departments in planning and studies.

Chall: Was that because it was difficult to work with them?

Bonderson: No, we'd already been doing quite a bit, and a substantial part of our investigative budget was for contracts with the three departments. We still do a substantial amount of contract work with the state health department. Not so much with water resources anymore. We do have continuing contracts with the fish and game, rather sizable contracts.

Chall: You make contracts with their departments, to carry out--

Bonderson: To carry out certain investigations. Some of them are just for laboratory services. Some of it is just for limited letter reports, memo reports. We've had a number of cases throughout the years where we've had agreements with them to undertake rather substantial studies and subsequent reports.

Bonderson: So I don't think the pattern changed. There's philosophical differences here, with fish and game asking for this and they don't get it. And this is kind of aggravating on a day-to-day basis, but the overall working relationships really have been quite good.

Chall: What about his point, that boards should give further attention to the study and development of good water quality criteria? Is that a little soon? Does that inject another note in there?

Bonderson: I don't know whether it was the result of that or not, but, as I recall, it was about that time that we updated what we call water quality criteria. Let's see if I can find a copy.

Yes, it was shortly afterwards. Originally the board contracted with Cal-Tech [California Institute of Technology], Professor Jack McKee, to produce what we called water quality criteria. What this was, was a literature survey and summary on water quality criteria.*

Chall: What year was this, when he published it?

Bonderson: The original report was published in 1952. I don't know that it was the result of this document, but it was such a popular document that we contracted with Cal-Tech and Jack McKee in 1960 to update water quality criteria.

It was published in '63. Up until recent times, I would say this is probably the most extensively used document in the water quality field; it's been translated into Japanese. [musing] I wonder what I ever did with my copy; I gave it away to someone.

This has been printed and reprinted. Even though it's now seventeen years old, we still get all kinds of requests for it. Way out of date, but it's still a very popular document.

So we did follow up on trying to do something about water quality criteria.

Chall: Then he asked for a more vigorous program to swing from pollution abatement to more emphasis on preventive control. Were you working along that line already?

*Water Quality Criteria, State Water Pollution Control Board, Publication Number 3, 1952.

Bonderson: There was a more vigorous program, yes. Now, whether you can say we moved into more of a preventive control than there was before I can't say; in fact I don't think we did.

The basic approach, the basic law, that we had to deal with was not changed. So there still was the criticism that asking for end results was of an abatement nature and not of a preventive nature. And as I said before, I don't think it's that valid a criticism of the approach.

By a more aggressive program, though, that would, in effect, I think, result in more of a preventive attitude--that if a dis-charger is aware that you're going to get in trouble if you don't do what's right, there will be more care exercised in staying out of trouble.

So you might say, a more vigorous approach would swing you into more of a preventive mode. And I'm sure that's the case now. Because we're so much more vigorous, and so much more restrictive now, and the penalties are so much more severe now than they were fifteen years ago, that the preventive aspects are more effective.

Chall: You said you don't ever remember seeing this speech of Governor Brown. Does it mean that you were not aware of Governor Brown's great concern about this policy and the problem of pollution? Did this show up in any other way?

Bonderson: I don't recall this, I don't recall anything as specifically from the governor's office. The only way this would have surfaced, and it did surface, was through Mr. Warne particularly, and the other directors.

This pretty much details, or summarizes the position of the directors. So it would have been fed into the system on a daily basis from those people.

The Effect on the Regional Boards

Chall: He says, and I guess the regional boards all saw this, that he expects them to be guided by state policy enunciated by the state board, and that he places responsibility for general administration and policy guidance in the hands of the state board. What were the relationships, by 1959 and following the next couple of years, between the state and the regional boards? Were the regional boards edgy about this expectation? Did they feel a loss of some of their autonomy?

Bonderson: I would say that there still is today, particularly at the staff level, and there was then, an edginess, a concern that, "Don't tread on us too hard." And there continues to be criticism that the state board goes off and does things without proper consultation with the regions, and I'm sure that existed then.

But I don't recall any massive or major confrontations between the regional boards and the state board.

Chall: Their relationships, then, were--

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Chall: You were always cognizant of the feelings of the regional boards, in whatever you did? Did you always consider them?

Bonderson: I would say we were pretty, I was, pretty sensitive to the regions, and the communications between myself and the other executive officers, I think, were always quite good. They didn't hesitate to let me know if something went a little haywire.

So you always kept them in the back of your mind--what's the reaction, response of the regions. I'm not sure the state board members did, particularly the directors.

Between '59 and '63 I'd say the appointive members were still pretty sensitive to the regions. About this time, the board membership started to change some, though. Some of the original members were still around in the early sixties, and of course they were influenced by the earlier years. And then, as the newer people came onto the state board, that flavor was somewhat lost.

Chall: They came in with other attitudes about the place of the state board, perhaps.

Bonderson: One of the things that amazed the regions: a number of state board appointees came from the regional boards, and it's surprising how quickly their viewpoint changes. And this was quite apparent to the regional board executive officers. [laughter]

Chall: I found in Governor Brown's papers a letter from Mr. Warne to Governor Brown--this was dated June 14, 1960--on progress on water pollution control.

He talks about the Meyers Act and the support that the governor gave, and the value of these two new board members. He says that, "The state board, under the stimulation of the five departmental directors, Dr. Merrill, Mr. Banks, Mr. Nelson, Mr. Shannon and myself, set up a committee on state policy early last summer. This committee was composed of Mr. G. Kelton Steele, of Eureka,

Chall: who represents production of industrial waste on the state board, chairman; Mr. Paul Beermann of San Diego, who represents production and supply of domestic waste on the board, and myself.

"Pressures were exerted by industrial waste disposers and the regional boards, particularly the executive officers who compose the principal permanent staff of the regional boards, to prevent the completion of the task. The committee, however, sought an opinion of Attorney General Stanley Mosk, who confirmed your interpretations, and the committee then brought the policy statement to the attention of the state board, which set it for formal public hearing under the Administrative Procedure Act on June 8. That was the day you saw some of the members of the state board at the El Mirador Hotel.

"At the hearing, the bitterest opposition and sharpest criticism of the step and the proposal came from the regional boards. The state board heard them out, got some valuable assistance from Assemblyman Charles Meyers, who presented a forceful statement through his administrative assistant, from representatives of the sportsmen, health and wildlife interests, and it adopted the policy statement without a dissenting vote from any member present. The policy closely follows the Meyers Act and your letter to members of the pollution boards.

"The importance of this action is greater by reason of the fact that it sets a clear and unmistakable precedent for the state board to act in establishing policies and procedures for the regional boards to follow. This was the main point at issue. The regional boards have maintained their independence, but now they have had to acknowledge the supremacy of the central board."

Then, he concludes, "It would be important for you to make new appointments again to the regional boards, two members of each of which are serving terms which expire in September."

Well, that's the general tone. That looks as if this was the beginning of the attempt, at least, to promulgate policy at the state board level. Do you recall any of that controversy? Maybe it was just one of many.

Bonderson: He phrases it rather forcefully, which is Bill Warne's style.

Chall: [laughs] Yes, that's true. You always know what's going on when you read his letters.

Bonderson: Very limited recollection. I went back through my papers. [searches through papers] Okay, this was the Committee on the Formulation of Statewide policy. Bill Warne said this was a committee of the five directors?

Chall: Dr. [Malcolm] Merrill, Mr. Banks, Mr. Nelson, Mr. [Walter] Shannon and himself--that's the five directors.

Bonderson: What did they do?

Chall: They organized to establish state board policy. [checks through letter] He's writing about procedures by which these directors moved toward getting an interpretation of the Meyers Act and urging action to adopt a statewide water pollution control policy.

Bonderson: The paper I had was '63. No, I don't have anything on--

Chall: On that particular one. Okay. Well, it expresses, I think, the problems that might have occurred and probably did occur with respect to the state board's direction.

Bonderson: This started, on the state board, inserting more influence on the program, no question about it. There was, particularly at the staff level, no concern about their sacred autonomy.

I don't recall any great flack over this. Sure, they no doubt appeared before committees and expressed concern. Maybe my skin was too thick to recognize the confrontation! [laughter]

Chall: I doubt it. [laughter]

1963: Establishing Water Quality Control as a Factor in State Water Policy

Chall: However, you do have some material there that would indicate that there were other activities of that committee on state policy. We might just as well carry on with this, because certainly the '63 law was quite explicit in the statement that the state board was responsible for the direction for, this time, water quality control. That was watered down just a bit in 1965, but the 1963 act made it quite clear.

In fact, it was "to provide for coordinated statewide program of water quality..." and the board was "directed to formulate a statewide policy for the control of water quality policy." I'm just reading from your own final report here.* So this definitely strengthened the hands of the state board in the legislation. It wasn't just a matter of what you might read into it.

*"Useful Water for California," Final report of the State Water Quality Control Board, November, 1967. The Resources Agency.

Bonderson: Yes, this continued the swing to the state board--the 1963 act.

Chall: That was SB 1096, George Miller--Senator George Miller.

Bonderson: The major change here was broadening the scope of the state board's interests to encompass water quality control, rather than the narrower field of water pollution control. I suppose you would say it strengthened the state board and it provided means for statewide leverage, quite perceptibly.

This was carried by George Miller, and the material you sent me shows that Carley Porter had put in a bill that did all kinds of neat little things to the state and regional boards. That was referred to interim study. [AB 3025]

Chall: That's right, and I came across some material in the O'Connell papers which indicated that AB 3025 was a bill that had been put in at the request of Governor Brown.

Bonderson: By Meyers, Porter, and [Jack T.] Casey.

Chall: That was put into interim study and Meyers held hearings on that for a couple of years until it just petered out, because what happened was that the AB 163 came in, took up some of these things. [1967] But it was not, by any means, a dead act for several years. [phone rings]

Bonderson: I have no recollection of this at all.

Chall: Of AB 3025?

Background on Water Quality Control as an Issue

Bonderson: Until you sent this, and I took a look at it. This did stimulate some thoughts on it. I'd like to go back, though, to the general topic of water quality control, and a little bit, maybe, about how this came about, or how I think it came about.

All right. As I told you earlier today, pollution control historically was a public health responsibility, so their emphasis was on public health, prevention of nuisance, and a little bit on protection of fish life and dissolved oxygen.

Well, Dickey brought in the concept, and I'm not sure how this evolved, but the concept that what you need to do is protect all beneficial uses of water, with the recognition that with each

Bonderson: use, and every use, there are certain quality limitations, and if they're exceeded, the use is either impaired or destroyed to some degree.

So that's been our platform from the start in '50. I suspect this thinking was greatly influenced by southern California, and the next step, probably generated in southern California. Southern California has three sources of supply: local wells, which supply a rather substantial portion, the Owens River, and the Colorado [River]. Owens River, high quality, low mineral content water. Local supplies, reasonably good. The Colorado of poor quality, but it's wet.

Instead of less than 100 parts per million of total dissolved solids it'd be around, close to 800 parts per million. So southern California is sensitive to quality considerations. It's not as good a water for almost any use as, say, Owens River water.

MWD [Metropolitan Water District], the southern California water people, early became aware that the total dissolved solids on the Colorado River were going to increase as time progressed. Each time they built a new reservoir, this increased evaporation, which in turn increased total dissolved solids.

Increased irrigation in the upstream basin increases total dissolved solids. Increased diversions of high quality upper mountain waters of the Colorado out of the basin over into the central plains side of the divide, this would increase the TDS.

So they're sensitive about quality, and that quality could be impacted by man's activities, other than sewage and industrial waste.

When the water project was evolving, it was recognized by the Department of Water Resources that quality was an important consideration. Number one, after Shasta Dam was built, it did help the fishery downstream from the dam, but it was found that rice production dropped because the water was cooler. So there was a quality consideration.

So the department was aware of it; when they designed Oroville Dam, there were a number of things done. First, they put in a multi-level outlet structure so that they could draw off water that would not be adverse to the salmon run in the Feather River downstream. If you let out too hot water, too cold water, it could influence the salmon.

This would help them in controlling temperatures that were released for rice; part of the control structure. And this cost a couple of million dollars, the control structure.

Bonderson: Then Thermalito Afterbay, I think was deliberately made a big, shallow pond for warming the water. So quality was considered and built into the water plan.

Then they recognized that the Delta would be a problem. Southern California wanted good quality water. So they empanelled a group of experts, including Jack McKee, and they gave it a cursory look-see; it should have been in much greater depth. And they assured the department that water of such-and-such a quality would be available. It didn't turn out that way. That's why we have the Peripheral Canal proposal.

MWD asked for, and were given, in their contract, certain guarantees for the quality of water that would be delivered. Oroville, certain water-quality considerations; the contract for water quality to go south. Water quality was a consideration.

So, myself, regional water people, department people, fish and game people, southern California water people, were recognizing, "Hey, water's gotta be more than wet, and you gotta do more, or should do more, than just sewage and industrial waste control."

So the idea generated, "Well, we should broaden the activities of the state board and of the departments in general." And that concept--I don't think there was really any opposition to it. The Meyers-Porter bill, came first, as I recall.

Legislation: AB 3025 and SB 1096

Chall: I see. AB 3025 you think was introduced first?

Bonderson: It had been introduced first.

Chall: April 26, 1963.

Bonderson: [exclamation of surprise] No, the Miller bill was introduced first!

Chall: April first.

Bonderson: Okay. Well, anyway there were in the mill at about the same time. About the only thing I recall about these is, Bill O'Connell contacted me as to what I thought about the water quality section of 3025. And I told him I didn't think much of it, and Chuck Sweet that I mentioned previously, my assistant and I, came up with the language that ended up in 1096.

Chall: Oh, yes, I know there was similar language.

Bonderson: I gave that language to Bill O'Connell, and he passed it on to Miller. My only other recollection of 3025 was, this was such an administratively cumbersome--just an impossible administrative set-up--that nobody gave it any credence whatsoever.

Chall: It did seem very cumbersome and I really wondered about who thought it would work. But what it indicated from what happened the next few years, is that there was an attempt to create a special state office and do away with the pollution control boards--the regional boards.

Bonderson: Right. Dilute them. Now this, I suspect, was Bill Warne's position. Bill Warne being a very strong, administrative-type individual--and I don't say this critically--he has limited use for boards and commissions, number one. Number two, this dif-fused and semi-autonomous regional board set-up was just totally against his mode of operations.

What was proposed here was that, "Don't do away with the regional boards," but the staff and the office would be run out of Sacramento.

So you'd have an executive officer that would report to the board, and I don't know really what else he'd do. And then you'd have a state man that reports to Sacramento, running the office for that regional board. It was just nonsense.

So the only thing I could say is, since this was so bad, no one ever gave it much thought. Oh, Charlie Meyers may have had a few hearings. It just made no impact.

Chall: Yes, "the state board will act as an advisory board of the resources agency administrator." Well, it was complex, but that's a very interesting background on it.

Then what the Miller bill in fact did was simply to indicate that the state board was to consider water quality and provide some direction and some research in that direction. It changed the name of the state board, but not the regional boards.

Bonderson: It changed the name of the state board, and made it the Water Quality Control Board, and the board was to establish water quality control policy. And the departments in their planning and carrying out their activities, were to take recognition of such water quality control policy.

Chall: So that was a relatively simple change. Major, though, in direction.

Bonderson: A simple administrative change but a rather significant change in going from sewage and industrial waste control to the broader field of water quality control.

Bonderson: But none of the rest of this garbage in 3025 survived. Here again, this reflects particularly the determination of Bill Warne, that the state should have more impact on regional board operations.

Chall: A considerable concern, I would gather from what you say, about the quality of the water going into the California water aqueduct down south. I could tell that that was the problem at that time, but I didn't realize it to the extent that the state contracts with the Metropolitan Water District dealt with water quality as well as the quantity of water, and the pricing.

Bonderson: I remember the specific terms as I recall, "They shall do all in their power." It isn't an absolute--

[Interview 2: June 11, 1980]##

Chall: When we finished last week, we were talking about the water quality control act of 1963--George Miller--and you were explaining that it was a simple change but one that was very significant.

In terms of what happened in 1965, and then finally in 1966 and '67: Governor Brown, in his inaugural message to the legislature, January 7, 1963, said, "I ask you to take new steps to broaden the guarantee of pure water in California. I propose that the state Water Pollution Control Board, and the nine regional boards be consolidated under one state water quality control board."

That, I think, was what came out in AB 3025, the one you said was impossible administratively. At least that's the bill that Governor Brown proposed to the legislature, that was the Meyers-Porter-Casey bill.

Bonderson: What the the number on that again?

Chall: AB 3025. The general question is, how did Governor Brown's desire for this come through? Because he didn't win out at all on 3025. Did you feel the general pressure for this change, that ultimately came about in '67, came from Governor Brown through Hugo Fisher, through William Warne? How did you feel the pressure that was coming for a change--if you felt it at all.

Bonderson: At the early stages, that is, shortly after the governor's inaugural address, I don't really recall any specific pressures. There was this continuing pressure by Mr. Warne, and subsequently, Hugo Fisher, for strengthening the state board at the expense of the autonomy of the regional boards. That had been present for a number of years, and continued to be exerted.

But my recollection is that this bill was so bad, and really received no support from the lobby groups concerned with our program, that it left no real impact on me. As a matter of fact,

Bonderson: when I first received your first questions I couldn't recall anything about this bill at all. After seeing the bill, then it did stimulate my memory.

Chall: Well, that was not the end of it all; in 1963 that Miller bill, 1096, did strengthen the state board to some degree, didn't it?

Bonderson: It strengthened the state board to a minor degree, but the most significant change was the broadening of the scope of the activities of the state board, which ultimately was, also, given to the regional boards.

I'd say this was a very significant change, in light of what has occurred. This brought the board into a position where it could begin to consider water quality impacts over and above sewage and industrial waste. And it's rather interesting, looking at this in hindsight, that now we have a rather aggressive, massive, nationwide water quality control program--

Chall: Through the federal government?

Bonderson: Through the federal government and the states. The first thrust of the expanded federal program, beginning back in 1970, was the construction of sewage and industrial waste facilities. This is, at the present time, probably the biggest public works program in the country at the moment.

There are a good many people now who are beginning to wonder about the very high degree of requirements, treatment, for municipalities and for industries, because we're finding what we call "non-point sources" may be degrading the water to a point where, if something isn't done about other factors, you're not getting much of a return on high degrees of treatment for sewage and industrial waste.

So more and more attention is being given to impacts on water quality other than sewage and industrial waste. This was one of the first starts; in fact, I think it was the first start in the country, of broadening the scope of the pollution control authorities.

Chall: To other aspects of quality.

Bonderson: Yes.

1965: Additional Legislation Concerning Quality Control and Authority

Chall: Then, in 1965, there were a number of bills; the only one that really passed through easily was the one that would give some of this control back to the regional boards or make them partners with the state. Was that because the regional boards felt that between '63 and '65 that they had lost some of their autonomy?

Bonderson: No, I don't think it was brought about because they felt lack of autonomy; they're really the front line of the water pollution control program, particularly at that time. To fully get into the broader aspects, the only logical way to do it was through the regional boards.

At this time, the regional boards were rather highly regarded, and had fairly strong support across the board, not only from the water agencies, the waste discharger group, but by this time--and it's in contrast to back in the late fifties--even the sportsmen's groups were very supportive of the regional boards.

So they had strong support, and it was just logical that if you're going to deal in the broader field of water quality, have the troops really brought into it--

Chall: I noticed in that bill AB 1094 which passed that there was a great deal of amending of Section 13000 and the phrase "since water quality is a matter of statewide interest and concern." AB 1094 initially changed "since" to "where"; then it was amended to "since," and in every other amendment, the "since" would be taken out and the "where" would be put back. It seemed so subtle, and yet obviously it wasn't subtle to the legislators, or the lobbyists. It did end up as "where."

I was wondering what was going on here, in your department, with respect to the wording of these amendments.

Bonderson: I'm sorry, I don't really have any specific recollection on that point. My recollection of the modification of the language was the tug-of-war between Mr. Warne and his desire to centralize authority, and the water establishment, waste discharge group, desiring to keep the decentralized concept. The subtle changes in language, as I recall, really focused in on that point.

Chall: I think that's correct; you can certainly read it that way--and probably should. A lot of this, then, as I think you told me last week, really was centered on what was going to happen to water quality in the State Water Project--that that was the concern.

Chall: Otherwise, some of these laws wouldn't have happened. If you didn't have a Delta, and if you didn't have all these other aspects, it might not have been so touchy.

Bonderson: No, I don't really think that was it. I mentioned, on June fifth, that in the planning and the development of the water project, quality was the central point, or was given recognition. And this gave the people who were in it an insight on the need for the regulatory people broadening their scope of activities.

If there hadn't been a water project, we might not have had this attention focused. But not necessarily for the protection of the water project; it just happened to focus.

Chall: You would have still been concerned with industrial waste, pesticide, drainage, and that sort of thing.

Bonderson: Yes. But at the time I don't think it was envisioned we needed to do this for the protection of the water plan. I could be in error on that, but that's my impression.

Chall: Water quality was a problem. Whether it would have been that much of a problem if you hadn't had the water plan and the problems that the Delta was facing at that time--that's what I was wondering. Is that a central problem, the quality control here?

Bonderson: Even before the project was under construction, they did look at the water quality problems of transporting the Sacramento River across the Delta for export south. And as I indicated, it was probably too cursory, and the so-called blue ribbon panel assured all parties concerned that there would be no problem in meeting the contractual commitments on quality.

My impression was that there wasn't really any drive or push to create a regulatory set-up for protecting the plan. It just simply focused, "Yes, overall quality is a major consideration and concern, and the people should be looking into it."

Chall: I did notice in the paper that you and Mr. Rawn wrote, and that Mr. Rawn, at least, delivered, that you were then concerned with herbicides, pesticides, and at that time, something we hardly hear anything about anymore, and that's problems with detergents, which apparently have been solved pretty well. Or so it seems.

But there was a whole range of problems which are still, to some degree, with us.

Bonderson: That reminds me, that was one of the things we did right. There was a great hurrah about that time over detergents, ABS [Alkyl Benzene Sulfonate]. We had a study and a report that indicated it was not a major problem in California, and it turned out we were right.

Bonderson: Part of it is that they did switch to the degradable detergents.

Chall: But there was foaming here and there, in the waterways.

Bonderson: Yes, there was some foaming, and in a couple of wells in the Santa Ana basin.

Chall: There were some bills in 1965 that were vetoed [AB 1093, SB 470], there were a couple that just went off into committee and were never seen again [AB 2500, AB 2501]. One of them would have done away with the regional boards entirely. And another one, an idea that kept popping up here and there over a number of years, would have added a southern member to the state board and a northern member to the state board.

What were the concerns here, about the southern and northern members being on the state board, and also, in one bill, the idea of doing away with the five directors as voting members of the board? Who were concerned with those matters particularly?

Bonderson: I have no recollection of the north-south board membership controversy or proposal.

Chall: It indicates how little meaning some of these things may have had in the ongoing work of the board.

Bonderson: The doing away with the regional boards, I have no specific recollections on '65, but I suspect, again, this was Bill Warne, and Hugo's, influence on trying to centralize the program.

But then again, at that particular time, the regional boards had strong, strong support.

Chall: Here's one of Senator Miller's [bills] that was vetoed [SB 470]. It started out providing for water quality control on a regional rather than a statewide basis. I think this was one of his concerns with the 1963 act.

But then, after it passed through a number of amendments, the final amendment would have done away entirely with the state board. I found that rather interesting, because it indicated, I think, how concerned he was with the strength of the regional boards.

Bonderson: This was a George Miller bill? I have no specific recollections on this, but I suspect that what happened is Bill O'Connell was very close to George Miller, and Bill O'Connell's plan failed [because of the veto]. It was industry. Industry, again, still strongly supported and favored the regional concept, and preferred minimum interference by Sacramento. [laughter]

The Enduring Split Between Department Directors and Appointed Members on the State Board

Chall: This spate of bills, and the amendment process--quite interesting. Doing away with the five department executives as voting members of the state board, that was a problem, I'm sure, that you know about.

Bonderson: A hazy recollection. This was what, '65 again?

Chall: Yes. It may have been in there in '63, too.

Bonderson: By this time, there was a rather decided split between the directors and the nine appointive members. It even showed some in public meetings, public debate, the differences.

It became--the split--very obvious in committee meetings, as I recall. On several occasions--I don't know who the appointive member was at the moment--they, in effect, booted Frank Stead and Walt Shannon.

Chall: Booted them?

Bonderson: Booted. I doubt you'd find that in the dictionary. [laughter] Made fun of them. One phrase, I remember, is they accused Frank of continuously "reaching for the furthest star," without any recognition of the costs and the impracticality of it.

Comparable, rather sarcastic remarks were made to Walt Shannon, because every time a regional board proposed something it wasn't good enough, fish and game always wanted more, and the feeling was that they didn't have the technical support or justification for their requests.

Plus, I would say the state board appointive members were becoming a little aggravated with the departments for continually trying to weaken the regional concept. Remember I said that the board as a whole felt they should be strengthening the state board, by legislation and by their own actions, but not nearly to the degree that was being requested or wanted by the departments. So there was quite a split at this time.

Chall: I suppose that's part of the--[phone rings] As executive officer did you have to ride between those--

Bonderson: Yes, you had to be rather careful. Fortunately the people I was dealing with were capable, they're people with, I would say, very straightforward, very honest opinions and beliefs, and will

Bonderson: accept differences of opinion, will live with them. But it was a little bit of a problem, of trying to keep peace in the family and keep yourself out of trouble.

Fortunately, I got along quite well with the directors. For example, when the first State Air Pollution Control Board was created, Bill Warne strongly urged me to apply for the job of executive officer and implied I'd have a good chance. I believe at this time Warne was secretary of the Resources Agency. Well, after mulling this over for a couple of days I explained my reasons for not applying. His reaction was, "That's a philosophy of timidity." He was right; but I am glad I didn't get involved with the air board. Incidentally, they picked up our meeting agenda folder technique.

Chall: Enough to give a person ulcers if he were so inclined, I imagine. There were hearings all the time between '63 and '65; it was just continuous. In '64, [searches through papers] at a meeting of the Coordinating Committee on Water Pollution and Water Control, I think it was an industry committee, there was discussion and recommendation on pending legislation. The person speaking said that he agreed with Alan Post, that the state Water Quality Control Board be reduced by eliminating the five state directors as voting members, and that great cooperation between state and regional boards be effected by naming one representative from the south and one from the north.

Then, this industry group also wanted it clearly spelled out to Senator Miller that the state board's responsibility for quality control be limited only to those waters which are to be exported. Do you have any idea what that means?

Bonderson: Could you read that again?

Chall: I have it written down here [notes from O'Connell papers] that they wanted it "clearly spelled out to Senator Miller that the state board's responsibility for quality control be limited only to those waters which are to be exported."

Bonderson: I don't recall this, but the intent would be, apparently, to limit the state board in its water quality control activities, other than possibly pollution control. Control would be just for impacts that would effect the transfer of Delta waters to the southern part of the state.

Chall: Are the waters you were not be concerned with, any kinds of industrial-

Bonderson: No, I would interpret this to mean like in the San Francisco Bay region. The state board, in the central part of the bay, is not to concern itself with quality considerations other than sewage and industrial waste. Why, I can't speculate.

- Chall: My notes here are that this seems to have been an industry meeting on the problem, in 1964, and they were meeting about the legislation that was coming up at that time.
- Bonderson: This is just another reflection of industry's desire to strengthen the regions and weaken the state.

1967: The Change in Administrative Structure and Direction

- Chall: What do you think led up to the major change that went in in hearings during '66, and then was passed in '67, which changed the structure of the state board? Also, what was the state board, or a state officer like you, able to do, or what did you do behind the scenes, while that legislation was being written, revised, and Ronald Robie and his staff were making the study?

The Little Hoover Commission Study

- Bonderson: I have no recollection of being aware that the Little Hoover Commission was studying and going to make recommendations for changing the water quality control set-up.*
- Chall: Did they not come to you?
- Bonderson: I have no recollection of having any previous knowledge of this. Here again, I suspect Mr. Warne and Hugo Fisher were working on the Little Hoover Commission.

So the report came out, and this of course surprised me; and the report recommendations that the program in essence be turned over to the Department of Water Resources and the California Water Commission, was totally inappropriate.

*The Little Hoover Commission, formally the Commission on California State Government Organization and Economy, issued the report on its study, "The Use of Boards and Commissions in the Resources Agency," in April, 1965.

Bonderson: The reason being is the Department of Water Resources, which the commission is involved with, is the biggest purveyor of water in the state of California, with possibly the exception of the Bureau of Reclamation. So there's a fundamental conflict here.

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Bonderson: How can they [Department of Water Resources] regulate people who have an interest or an activity that conflicts with the basic interest or responsibility of the department, as a purveyor of water? How could they [waste dischargers] expect to get a fair shake from the department's diversion to southern California?

They are a vested interest. So, just fundamentally, it was wrong. Here again, what was being proposed by the Little Hoover Commission would, as I recall, do away with the regional boards, it not do away with--substantially reduce their authorities and responsibilities.

Chall: Yes, the commission's recommendations would "strip the regional boards of all staff and all authority, except to review appeals from actions by the Department of Water Resources."

Bonderson: Now why, I'm not sure, I recall having lunch with my assistant Chuck Sweet at Posey's, and we debated this proposal. I thought, instead of the Little Hoover Commission's recommendation, the thing that should be done is to combine the Water Rights Board and the Water Quality Board, so that we would have an overall water regulatory agency that would concern itself with both quantity and quality--and there is a direct inter-relationship--considerations.

Then you'd have a unit of government that would be a regulatory unit; you would have the department as a study/planning unit, and as a water purveyor. There would be an appropriate separation of powers, and you would eliminate the conflict.

So I went over and suggested this to Ron Robie. It fell on fertile ears. At the time, I was of the impression this idea had not been previously suggested or discussed. Then Ron Robie went to work and prepared the report and the recommendations for combining the boards. I recall very distinctly my discussions with Ron, and the main debate or discussion was, "What should we call the new board?" The best we could come up with was the Water Resources Control Board. Neither of us thought it was what it should be, but that's the best we could come up with.

Creating the Water Resources Control Board: AB 163

Chall: Along the way, of course, that was a bill that was discussed and discussed and discussed for a couple of years. But the acceptance of this joint board--?

Bonderson: As I recall, the bill came out, along with Ron's report, and it passed rather quickly; there was not a great deal of delay or controversy over the bill. The only controversy I recall with the bill, was that the discharge group--I use the phrase, "discharge group," which included people like the League of California Cities, the Supervisors' Association, the Farm Bureau, what-not. The only real argument and debate was over having what was finally put into the bill as a Water Quality Advisory Committee, which was to be made up of, essentially, the old appointive members of the state Water Quality Control Board.

They were very insistent that they wanted the public input that would be available through the part-time board, that had been doing the work up to this time. They liked this part-time, affected, interested personnel, rather than the paid bureaucrats' input into the system, and they were very adamant on that.

I don't recall now, but there was a group that was not very enthusiastic about putting in or providing for the Water Quality Advisory Committee. There was some hesitancy to do this. I don't recall who or why.

But the discharge group--very adamant, and so it was incorporated into the bill. The advisory committee didn't work out too well, and they on their own motion suggested it be eliminated.

Chall: Oh, is that right, so there is no longer an advisory committee?

Bonderson: No, that was discontinued, I think, in '69 or '70. It was only about a two-year trial, and as I said, they adopted a resolution suggesting the Advisory Committee be eliminated.

Chall: So the only citizens' groups, then, are on the regional boards? Appointed?

Bonderson: That's right; the state board does no longer have a separate outside advisory group. The Porter-Cologne Act provides for a Water Quality Coordinating Committee made up of members of the regional boards.

Chall: Were you in general agreement with a full-time board idea?

Bonderson: Yes, it was my idea.

Chall: I see. But--

Bonderson: It would take the core of the Water Rights Board, and add two members to it. That, essentially, was my idea.

Chall: So you retained, then, some kind of state board. With the transfer of the state board to the water commission, you think that would have not only been a conflict of interest, but it would have eliminated the kind of work that the state water quality board was doing?

Bonderson: No, they would continue to work. But, first the fundamental conflict, that they'd be regulating other people who have adverse or a contrary interest to the department's interest. And the regional concept would've been lost; in effect, it would have been the department doing the work of the regional boards. This I did not feel was appropriate.

Chall: With a stronger centralized control, and a full-time board, that was acceptable? You wrote it in, not because you felt that something was going to come anyway, but this was a more acceptable way of conducting the work of the board?

Bonderson: I probably, at the time, felt that, considering all the legislation that had been going on, particularly the departments urging, and with the Resources Agency becoming more influential, that there was going to be a change. And to me this appeared the more desirable change than the Little Hoover Commission proposal.

Evaluating the Change and the Function of the State Water Resources Control Board, 1967-1980

Chall: Your responsibility in this new organization has been with quality control. How has your work changed--obviously you don't have anything to do with a board anymore--it's what, straight technical administration? Has your work changed in large measure?

Bonderson: There's first a very substantial change. When the board was created I was, of course, no longer executive officer. And I became the chief of the Division of Water Quality.

So I was the principal staff for giving technical advice to the board on water quality matters, for a number of years. And there is quite a difference in being a division chief, as contrasted to an executive officer.

Bonderson: Our first executive officer was a very aggressive, dynamic individual, Kerry Mulligan. And he really took the ball and ran--that is, he really put the state board on the map. Very aggressive. And immediately he started to build up the state board staff, and the state board's influence in the program.

He had the personality that he could pretty much get away with it. He then became chairman, and our next executive officer, Jerry Gilbert, was likewise a very bright--Mulligan was not a technical man--Gilbert was an engineer, but a very bright, capable engineer, and again, very aggressive. So the team of Gilbert and Mulligan really built up the state board.

As I recall, the State Water Quality Control Board, when we were combined with the Water Rights Board, had a staff of twelve. We have a staff of about five hundred now. The both of them, with their personality and their drive, really switched the whole thing around.

Chall: Was that all during the Reagan years?

Bonderson: Yes--

Chall: The eight Reagan years--

Bonderson: Mulligan got in trouble and he left the board during the Reagan administration.

Chall: Aside from building up the staff and being an aggressive organization, has it been doing the work in terms of water quality control that was expected of it, do you think? Was this, in your view, a good move? Could the same thing have been done the other way, the old way?

Bonderson: I don't think there's an answer to that. To have done what the state Water Resources Control Board did would have taken a whole new set of characters. That is, you'd have to have had a whole group of people that were far more aggressive than the people who were involved before the change. That's number one.

A number of very substantial things have occurred that I don't think would have otherwise occurred. That is: the present state water quality control board--

Chall: Water resources--

Bonderson: State Water Resources Control Board opened up the water rights permit for the Department of Water Resources and the Bureau of Reclamation for export from the Delta.

Bonderson: They held extensive hearings, and they came up with a decision that includes provisions both on quantity and quality, and I don't think that would have occurred with the force and effect if the system had not been changed. I think the water rights decision has far more legal status and force than our old water quality control plans.

Before the boards were combined, we did include in our state and interstate water quality control plan, quality considerations for the Delta. But I just don't think they would have had the stature and the impact.

Chall: And was your cooperation with the Bureau of Reclamation an easy one in those days? It probably isn't easy now. But were you able to deal with the federal government on issues like this very effectively?

Bonderson: Well, we did things, as the water quality objectives for the Delta. I don't think they paid much attention to us. And we, as a state agency, I don't think, as then constituted, could have got their attention. It would have taken the EPA or its predecessor agencies to have really made it effective.

Now, the state board has taken other actions. Their decision on the American River has quality considerations in it. The New Melones Dam.

So on the major key quantity/quality issues, things have occurred that otherwise would not have occurred. On a day-to-day basis, I expected there to be more integration of quantity/quality considerations. That has not occurred, and I think probably because, with the minor water right permit applications, the quantity/quality inter-relationships just aren't there. So, appropriately, quality is not a particular factor there.

Chall: But what it is in large--

Bonderson: On these major decisions, particularly the Delta, yes, it's been a major factor. Most of the major water rights decisions have been made, and for the foreseeable future it doesn't look like there'll be any more major decisions, since there aren't going to be any more projects in the foreseeable future.

Chall: So you think maybe there'll be fewer employees in time?

Bonderson: Oh, that never happens. [laughter]

Chall: That's an honest answer. There was quite a bit of discussion about the full-time board versus the part-time board; has that been an important factor? Aside from all the other positive changes you've mentioned, is having somebody on there full-time of any merit?

Bonderson: Well, it's different. This particularly impacts the staff. I don't want to imply but to a degree, it probably is true. With a part-time board, the part-time board is somewhat of a captive of the staff. Unless you really get out of line, you can pretty much steer them, direct them.

From a staffperson's point of view, this has certain advantages, particularly with a large board of fourteen people. You have a continuity, and things continue to flow in a given direction.

With a full-time board, particularly with only five members, you have one or two people change, or maybe only one person change, and that person is the chairman, and is a very aggressive, dynamic individual, you can have rather abrupt changes in directions.

And then, for some reason or another, that chairman leaves, or that aggressive person, someone else comes in. Then you start heading in a different direction.

So we've had some rather dynamic people: Kerry Mulligan, for example, Ron Robie on the board, John Bryson, and now Carla Bard. All very strong people who have their own likes and dislikes. So there isn't quite as much continuity; which is comfortable to the staff. [laughter]

Chall: What happens with discontinuity?

Bonderson: Well, maybe discontinuity is good, I'm not sure.

Chall: At least you see it happening. That brings us up to date, I think. What I'd like to do is to go back and go into some of the general questions on administration that you had to deal with. Since it's twelve o'clock, do you think we should break for lunch?

Bonderson: Why don't we just go on through, if you can stand it.

III SOME SPECIFIC ISSUES IN THE ADMINISTRATION OF WATER POLLUTION AND WATER QUALITY CONTROL

Budgeting, Research, and Interagency Relationships

Chall: I want to go back to your work as an administrator of the state board. In the matters of budgeting and working with the finance officer, setting up meaningful budgets. At some time, as the work progressed, you did a lot of research. I just want to know how you determined what your budget was going to be from one year to another, and with whom you worked on it.

Bonderson: Can you be a little more specific?

Chall: How did you get the amount of money you needed from one year to the next to do the work that you thought you were supposed to do, according to the law, or what your board was expecting?

You started out with a very small staff, as I recall; how did you get more staff members?

Bonderson: Well, the state board never did get many staff. As I recall, when we were consolidated, we only had twelve people.

Chall: In 1967?

Bonderson: That included three or four clerical. A very small staff. The budget process has always been and still remains a mystery to me. Most of the time it boils down to, you get to spend next year what you spent this year.

On several occasions, it became very apparent that the regional boards desperately needed additional staff. And special effort was made by the regional boards particularly to prepare the justification and a rationale for increased staff.

Bonderson: I'd say, generally speaking, these requests were not totally looked upon with favor by the Department of Finance, but we didn't have a great deal of difficulty. I think we were generally recognized as not too ambitious, and that if we asked for something, we were not looked upon as empire builders. Now, maybe that's wishful thinking on my part, but I don't recall any great difficulty.

For research, I have no recollection of how we came about getting the monies that we got; I can't help you there.

Chall: But you did a great deal of research--

Bonderson: We did quite a number of projects, that's right. Most of the projects, up until the San Francisco Bay-Delta study, were not--particularly by today's standards--were not terribly costly projects.

Chall: I noticed, in some of the legislation that we've been talking about, that there would often be separate legislation, money set aside particularly for the Delta study, for San Francisco Bay, and there was frequently a conflict over whether the research was to be done with an outside consultant, or by experts within the departments, or half-and-half. But sometimes this was a major source of controversy. Is that a problem that you faced? Was that a problem among the legislators? What was behind it?

Bonderson: [pause] No recollection. The only thing that I recall was that in the early stages, the initial appropriation [Bay-Delta study] was made to the university at Berkeley. And, as I recall, there was some continued support for giving it directly to the university.

Within state government, there is always, and within the, let's say, Department of Finance, the feeling--in fact I think it's a constitutional provision--is that if something can be done by a state employee, it must be done by a state employee rather than by contract.

There's the general feeling that doing work by contract is not as efficient or effective, that you get less for your dollar, and that you do not have the control over the work or the outcome that you would have internally.

So there is this constant tug-of-war. For us, with limited staff, to build up a staff, to do this type of thing, just wasn't practical.

Now, the departments, fish and game, water resources, and public health, did have some staff, and of course they were always interested in participating to as great an extent as they could fit

Bonderson: in to the program. So we were always faced with the pressure from the departments to give them a piece of the pie. I would have to admit, I guess, that on some of the things that we were trying to do--

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Bonderson: The good consultants could do a better technical job, and do it as cheap, if not cheaper, than the departments. Now I was strongly supportive of the university; since it's another state agency that doesn't give us a problem--the contract is given. The only disappointment with the university was the slowness of getting out their reports. [Erman] Pearson really did a disgraceful job of meeting deadlines. In fact he was years late on the final report.

Chall: I had a letter that I found in Governor Brown's papers--from Hugo Fisher [May 26, 1965], and this had to do with who was going to get the opportunity to do the study on waste collection and disposal in San Francisco Bay, whether it would be the Resources Agency or somebody else.

I guess this indicates that there might have been some inter-departmental lobbying for some of that as well, even to the point of writing to Governor Brown.

Bonderson: I can't elaborate on that, but there was, yes, particularly with the Resources Agency. In fact, on the Bay-Delta study, that was the only time I ever got a call from Governor Brown. He advocated employing, as the project director, an individual that we weren't too enthused about [chuckles]--he wasn't hired.

Chall: This was one of the Bay studies having to do with everything--the Delta, the drain, the whole bit. The first experience that anybody had with the Resources Agency was when it was set up in 1961, and Hugo Fisher was ultimately made the director. He was a very strong person, I would gather. Were the relationships difficult with him?

Bonderson: I wouldn't say difficult. Hugo was a very forceful individual, and like Bill Warne, a strong advocate of centralized control, rather than this diffused regional concept.

It was difficult in this respect--that is, initially, the Resources Agency was not very strong, had limited staff. But as time progressed, they became stronger, and had more staff, and as this occurred, then of course they were exerting more influence on you.

With Hugo being the representative of centralized control, the voting power on the board concerned more with strong regional control, that makes it a little difficult. And it becomes difficult to adjust to, having worked almost entirely independently, then have somebody start moving in.

Bonderson: By the mid-sixties, there were federal hearings on Lake Tahoe, for example. Well, a few years earlier, we would've just handled this on our own. Instead, Hugo Fisher moved in and sort of took over.

So the state board was losing, and the state board staff, losing some of their authority over there. But Hugo was a capable man, and good to work with.

Chall: I noticed that in 1965, his office set up interim standards for water quality that would stand until the time that the state board set them up. I saw this in a letter in Governor Brown's papers. [March 19, 1965] Very strong standards, and he stated, "These will be the interim standards." They were just set up and announced, it would appear.

Bonderson: You know, I'd forgotten all about that.

Chall: But now you remember?

Bonderson: Slightly, yes. He came up with some kind of interim standard, on what authority or basis I have no idea.

Chall: I think his office just felt that he could do it.

Bonderson: But as I recall, no one paid much attention to it, and then they faded away.

Chall: By the time Mr. [Norman] Livermore came in, followed by Claire Dedrick and Huey Johnson, your position became a little different. Are you able to analyze the differences among those people with respect to their handling of the Resources Agency?

Bonderson: No, I can't help you there, because I'm so far from it that I have no appreciation at all for it.

Chall: Just didn't want to miss an opportunity. Gradually, organizations like the Sierra Club and Friends of the Earth, Save the Bay, environmental defense groups, the Audubon Society, the writings of Howard Gilliam, became quite prominent in the field of environment. Did you here feel the impact of organizations like that?

Bonderson: The impact of organizations such as you've mentioned were rather limited until the late sixties, 1970. There was a little activity by the Sierra Club, but rather limited. As I mentioned previously, the sportsmen's group were the primary ones that were concerned with it.

And by the way, just to digress here for a moment, you mention these environmental groups. I can't help but feel that Seth Gordon, the director of fish and game, and John Charles Daly, of "What's

Bonderson: my Line?" TV fame (you know, he married Earl Warren's daughter) who were on the federal water pollution control advisory board, really pushed the federal people of that time to initiate a public education program. Of course, the public education program was focused on water pollution control. And these were some of the earliest television spots, national news releases, et cetera, in the general subject of pollution, other than air. There was some publicity on air pollution.

But I can't help but feel that the prodding back there to try to educate the public, particularly through water problems, was part of the stimulation for the environmental movement. They deserve a lot of credit for starting this type of thing.

Chall: The federal government, on the whole, because of the money that it's been able to provide for studies and construction, has been, I would guess, very important in this whole water pollution/water quality control field. Would you have been able to do as much as has been done within the last decade or two if it hadn't been for the appropriations of the federal government?

Bonderson: Oh, I'd say obviously no. But it's not just the federal government; we've had two bond issues here in California. So the federal government has been putting up 75 percent in recent years of projects, and the state 12 1/2 percent, leaving only 12 1/2 percent for the local people. And, the cost of the projects being so great now that the local people would have considerable difficulty financing it on their own.

Lake Tahoe

Chall: You say that eventually the Resources Agency took over what might have been your work at Lake Tahoe, but to what extent did you, early on, deal with the Lake Tahoe issue? And what do you see for Lake Tahoe in the future?

Bonderson: I'd say my involvement with Tahoe started shortly after I came to Sacramento in '56. For two reasons: one, the executive officer of that board was a pretty good friend of mine, and he had no staff. He was not a graduate engineer.

He was very good at seeking out people to help him, and it was kind of nice to do something other than just sit behind a desk and move paper. So he would seek my advice and I gladly gave him help and advice, as the years went by.

Bonderson: And the other is, is that this is an interstate body of water, and the state board was the principal spokesman on interstate matters, be it Tahoe or the Colorado River. So through those two channels, I did participate in activities on Lake Tahoe.

Chall: There must have been a tremendous amount of frustration because of the political--

Bonderson: No, the politics back in those days, no, no. When the boards were first created, there wasn't too much up at Tahoe. The south end of the lake, as I recall Harrah's Club, or whatever, one or the other, I believe was just a quonset hut, with a few slot machines. Highway 50 was not kept open year around.

It started to grow, and sewage problems developed. And I'd say that one fellow had a lot of foresight; his name was Cecil Edmunds.

He was from Truckee. Sewering first started with a community septic tank at the south end of the lake, small treatment plants at Tahoe City and North Tahoe--well, those were the first three. And he could see these plants being built all around the lake. And he encouraged the board and the staff to start trying to lead the development up there for consolidation of facilities, rather than these little plants, which don't have the resources for proper operation.

Then this grew into the realization that the only answer is export, primarily because South Tahoe's sewage reached a volume where they couldn't keep it on land--it would overflow in the wintertime, into the lake. The intent was to keep direct discharges out of the lake.

So the regional board was really a prime mover in getting consolidation of facilities, and then, with a lot of help, finally getting export systems developed at the lake.

I'd say, from a sewage point of view, the Lake Tahoe problem is pretty much solved. Nevada exports; California; an export system at the south, an export system for the north.

On the California side, almost the entire rim, or the shore of the lake is sewerred. All the way from D.L. Bliss, on the west side goes north, clear over to state line. And at the south, the system goes to the state line, almost up to Emerald Bay.

So the sewage part of it is pretty well solved. It's just a matter of providing the capacity for whoever is allowed to build up there, and to keep the system operative.

Chall: And that's the main concern of this office, sewage?

Bonderson: It was. Now, the concern is erosion. It's contended that erosion not only discolors the water, but will carry into the lake nutrients which would stimulate algal growth, which would hurt the clarity of the lake. What the future is there, I don't think anybody knows.

Tijuana, Mexicali, and Imperial Beach

Chall: A number of years ago there was a considerable amount of difficulty over an outfall sewer system in Tijuana, Mexico, that was affecting Imperial Beach, and the International Boundary and Water Commission and the regional boards, and you, and others, were actively working on it; it looked like a long-range, difficult problem.

I guess you don't have to discuss Imperial Beach and Tijuana, Mexico, if you give me some example of what it meant as an executive officer of a state board and even a regional board to be involved in something as difficult as this, on an international basis.

Bonderson: Well--my contacts with Tijuana were rather limited. Number one, for some reason or other, the executive officer down there didn't feel he needed the help. So it was pretty much handled by the regional executive officer.

Of course, our formal contacts or the regional board's formal contacts is with the boundary commission. There are informal contacts with Mexico, but it's rather limited.

There were study commissions, or study groups, or advisory groups, and the regional board was on those rather than myself.

For the regions, Tijuana and Mexicali have been a very frustrating experience. In the early years, yes, it was a problem, but rather minor. Tijuana had a septic tank for just a few thousand people, sewer to California. San Ysidro had a small community septic tank, and the WPA had built them a small outfall to Imperial Beach. Not a desirable thing, but rather minor.

But then Tijuana started to grow in a cancerous fashion, to say the least; in fact it's bigger than San Diego now. In about mid-fifties, they'd reached the point where this little outfall wouldn't work, so they built a combination pipeline/ditch to the ocean on the Mexico side of the border.

Bonderson: Frequent breakdowns, frequent failures, which were frustrating to the regional board. And when the San Diego Metropolitan System was built, they finally made an emergency connection to the metropolitan system.

The frequency of the use of the metropolitan system has been increased and increased, and the last I've heard was about two hundred and some odd days per year.

The pipeline was washed out this winter; the pipeline now will not carry the full volume. So, raw sewage is being bypassed into California at the present time.

Chall: Right into the ocean there?

Bonderson: No, it goes in at Tijuana, and flows down the Tijuana River to the ocean. Mexicali is almost as bad. I recall, when I first came to Sacramento, made a trip down there, and they'd started constructions of the sewer system. So I went down there and there it was, sitting up on top of the ground. They had started construction on a pump-well--just a box in the ground--and they forgot to fill it with water, and it floated out. It took three or four years before they even got that repaired.

They finally got Mexicali pretty well sewered, but the system breaks down. So a good deal of the time, raw sewage is still coming across the border.

Chall: And what is the present water quality control board able to do about this?

Bonderson: The regional board keeps nagging at the state board, and the state board keeps at the boundary commission, and not much happens. It's a very, very slow process; very frustrating.

Chall: I suppose it would take an outbreak of some terrible disease before it might move faster?

Bonderson: I don't know what it'd take. [laughter]

Chall: Well, it's interesting. I saw these old letters in the Brown papers, and I see one could probably draw up a whole box full of them still, and--

Bonderson: They aren't solved.

Chall: And, of course, the San Francisco Bay-San Joaquin Delta problems, in general, are still with us. I don't know what's going to happen when the Peripheral Canal bill passes, which it looks as if it might. Are you involved in studies of quality--

Bonderson: I haven't been involved with that.

Dairying, Lumber Mills, the Drain, and Pesticides

Chall: Well, then, I saw a letter or two about local matters--this was in the early days, mid-sixties--I would guess--concerning the disposal of dairy wastes in Sonoma County, and the building of a paper mill in Redding.

These are problems which would come up, which, I guess, the state board didn't have a great deal of control over.

Bonderson: In the early years there was not much activity on dairies. There's been a great deal of good work done in the last, oh, five or six years. It's not totally solved, but most of the dairies now are conducting their operations in a satisfactory fashion, and much, much improved over what it was in the fifties.

Chall: And lumbering, paper mills, saw mills?

Bonderson: That's a major problem in the north coast, from an erosion point of view, and there's been much controversy between the regional board, the Department of Agriculture, the County [Agriculture] Commissioners and the lumbering industry over the use of herbicides.

Chall: That's still in the realm of controversy?

Bonderson: It's still in the realm of controversy, yes.

Chall: We've talked about, in the past, your relationships with fish and game and the health department. What about agriculture, and the problems and concerns with pesticides, insecticides, and the Drain--the building of the Drain? To what degree were you able to exert any influence on that state department? This is a matter of water quality.

Bonderson: I think you'd have to say that during my time as executive officer, we really didn't involve ourselves with the Department of Agriculture's activities. We pretty much stayed away from pesticides.

Drainage? Really given no attention by us.

Chall: In the major studies, though, with respect to the drain dumping water under the Antioch Bridge--was that Pearson's study?

Bonderson: That only touched lightly on the Drain. I'm sorry, Pearson's study didn't touch on the Drain at all.

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THE RESOURCES AGENCY OF CALIFORNIA
STATE WATER POLLUTION CONTROL BOARD

ROOM 316, 1227 O STREET
SACRAMENTO 14, CALIFORNIA

March 5, 1963

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Mrs. Edwin J. Kelsey
2240 Old Adobe Road
Petaluma, California

Dear Mrs. Kelsey:

The Governor's Office has asked me to look into the pollution problem reported in your letter of February 13, 1963. Although the regional water pollution control boards have the primary responsibility for controlling water pollution in California, the Governor's Office normally refers inquiries of this nature to our office for reply. In this instance, I have contacted the San Francisco Bay Regional Board for further information.

These semi-autonomous regional boards were created primarily to prevent and correct public pollution problems resulting from the discharge of community sewage or industrial waste. The boards have been given neither the budget nor the staff to effectively handle the many waste disposal situations involving private individuals. This is especially true in the case of problems resulting from agricultural operations.

While the regional boards are not equipped to handle such situations in the same manner as they control pollution from major waste dischargers, as coordinating agencies they do attempt to see that proper action is taken at the local level to correct problems that affect individuals only. This cooperative approach has proven very effective in most counties, and the San Francisco Bay Regional Board has been working with the officials in Sonoma County toward this end for the past year. I have been advised that the Regional Board's staff has arranged a meeting later this month to discuss solutions to the problems of dairy waste disposal in your County. Cooperating in this meeting will be representatives of the Sonoma County Farm Bureau (including several dairy farmers), County Agricultural Commissioner, County Farm Adviser, County Health Department, and several County Supervisors.

Mrs. Edwin J. Kelsey

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Even though the Regional Board has not been in a position to directly help you in controlling the barn wastes discharged by your neighbor, I should point out that you have other recourses available. The California Water Pollution Control Act specifically states that no provision of this Act or any ruling of a water pollution control board is a limitation "on the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in the Civil Code or for relief against any contamination or pollution."

Very truly yours,

Paul R. Bonderson

PAUL R. BONDERSON
Executive Officer

cc: Mr. Ray Varley,
Governor's Office

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Chall: It was just coastal water.

Bonderson: It was the quality of the waters of San Francisco Bay, with the principal aim being trying to evaluate the impact of sewage and industrial waste upon water quality.

Then the follow-up study, the Kaiser Engineers study, was primarily sewage, and industrial waste, too, with only a limited attention to the Drain. The Drain has really been a separate thing, with the main studies being done by a special Interagency Drainage Program: Bureau of Reclamation, Department of Water Resources, and state Water Resources Control Board.

Now, that's been somewhat controversial, and the regional board did adopt, as I recall, some rather restrictive requirements, or proposed requirements, on the Drain.

The Department of Agriculture, really not too involved in the Drain; that's more the Department of Water Resources.

Chall: And with pesticides and insecticides that could affect the water and the water-table.

Bonderson: Yes, the primary control responsibility is the Department of Agriculture, and the local agriculture commissioner. Now that doesn't say that the state and regional boards don't have some responsibilities.

In fact, the North Coastal Regional Board feels that there has not been adequate controls, and are independently trying to exert more influence than the department, or more controls than the department had been applying.

Chall: So integration of the problems within and among departments as such has not fully, even after all these years, taken shape.

Bonderson: No, no; there's still differences of opinion.

Chall: Work to be done. Well, I think on that note we can consider ourselves finished. I would like, though, since we have a little time, just to let you ruminate a bit, out loud, if you want to. You might want to add something that you think you'd like to, or touch on things that we didn't discuss.

The Selection of Contractors

Bonderson: One of the first questions that you had in your outline was, how did we select contractors. It was a much simpler process in those days.

Bonderson: Essentially, it was by my own personal knowledge of the potential contractors. Now, this may have not been the right approach, but I think it worked pretty good, that we were able to select contractors who we knew had the talent and resources that were needed to undertake a particular study.

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Bonderson: On the Bay-Delta study, which, of course, was a big study, dollar-wise, compared to what we'd done in the past, we did start the process of soliciting proposals, and going through a structured, formal process of selecting contractors.

Chall: By bid?

Bonderson: Well--

Chall: Cost?

Bonderson: Presumably, you don't bid on professional services, but costs are always involved. [chuckles] It's a very difficult thing, trying to say, now--where there's so many potential contractors--of trying to say, "This particular organization is better qualified than that one." It was easier in my day, in that there were not very many people or organizations that really had the talent. So you could narrow it down rather easily. At the moment I can't think of anything more, but as soon as you leave, I'm sure that I'll think of a lot of them.

Chall: Put them down on paper and add them to your interview when you get it. You can add in whatever you want.

Pulp Mills

Bonderson: Looking at your outline again--the pulp mills. I'd like to mention another thing that I consider a success. Before I came to Sacramento in '56, as a result of a pulp mill not locating near Chico/Red Bluff, the state board undertook a study of what the pulping potential was in California, and the problems that it would pose.

I was left with the chore of finalizing this report. The report showed that there was a very substantial potential for pulping in California, and that there was no reason why it should have a substantial impact upon water quality.

And this proved to be the case; there were a number of pulp mills built--Anderson, Red Bluff, two big ones at Eureka. Yes, there's been, off and on, some need for the regional boards to

Bonderson: ask them to improve their operation, but overall, there was substantial development in California without a substantial impact on water quality. That's one of the, what I consider a success story.

The Effect of the Federal Grant Program

Bonderson: Of course, the other big change that has taken place--but most of this change has taken place since Governor [Jerry] Brown's administration, is the impact of the federal government on the program.

Through the construction grant program, the National Pollutant Discharge Elimination System Permit Programs, and through their support grants, they have a massive influence on what we do or don't do in the water pollution control field here in California. Well, it's true of the country.

Chall: Because the money's available. Direction?

Bonderson: The money's available; there's always a string or two attached.

Chall: Has that been beneficial, the string?

Bonderson: I really don't think it has been here in California; I really don't.

Chall: Could you elaborate a little on the meaning of that?

Bonderson: First of all, it creates an internal bureaucracy of substantial proportions, that erodes your efficiency.

Chall: The internal bureaucracy in the state departments?

Bonderson: Within the state organization, of having to do this, having to do that, having to comply with this regulation, having to file this report with the Feds; having to wait for the Feds to approve something.

One of the biggest problems we've had is with the areawide waste disposal planning--208 program. That's part of the Federal Water Pollution Control Act. And we're beginning the third phase now. The amount of money involved has been enormous. The first phase, 1974-77, I think, was approximately seventeen million dollars. The second go-around, 1977-80, was twelve million. And the results were extremely disappointing.

Bonderson: I've been far removed from it, and it has such a bad history that I really shouldn't comment on it. I just don't know enough about it to appropriately comment, just my perceptions.

Chall: But you still stand by the fact that you think that the federal government's requirements haven't been entirely beneficial, and some of the results have been disappointing.

Bonderson: Yes. Now, I'm of course looking at this from California's perspective. I'm biased, of course; I think we've had a pretty good pollution control program.

When I was executive officer, I occasionally met with the other states, and with the federal government--the people in Washington. In fact, I was president of what was known as the State and Interstate Water Pollution Control Administrators, in '66, I believe it was.

And it was obvious that the pollution control programs in some of the states were not particularly good. A number of states like California were doing a pretty fair job, and in fact the South was doing a better job than most people give them credit for. The New England States, New York, not so good.

So you can't tailor a program, necessarily, to California. And unfortunately, I guess in government or almost anything else, you tailor your program for the weakest link.

So I don't think there's a need for the federal government to involve itself to the degree it does in our affairs here. Concentrate on the weaker states, would be the desirable thing.

Chall: But regulations affect every state, is that it?

Bonderson: The regulations are nationwide regulations; and so we have to comply.

Chall: And some of them are more stringent than you have already adopted, and if so, you don't feel they're necessary, is that it?

Bonderson: I would say, quite a few of the things that the EPA is doing has no foundation in technical, scientific fact.

Chall: Nobody's getting to them with this information? Are some state engineers and officials beginning to bark back?

Bonderson: Well, the states may bark back, and have for years, but they're not listening to them. And I would say partially because some of the states have not done the job, and when they complain, the weight of their comments are greatly discounted.

Bonderson: I would say, other people, now, are beginning to raise the big question: is this really necessary, is this really--for lack of a better term--cost-benefit ratio at all favorable?

I would say, generally speaking, the 208 program has not produced much. The pre-treatment program that they're just trying to get under way has many weaknesses. I think that's enough on that.

The Uses of Research in Policy Direction

Chall: There's one question that I meant to ask you, I think it's also in my outline: what was the general effect or the use made of studies, research projects? Let's say, some of the big ones that Pearson did, and some of the others on the Bay-Delta, or wherever you might have done them. Did they translate themselves into direction, into policy, or were they put on the shelves, as so many studies are?

Bonderson: I'll have to generalize. It would have been desirable if there had been more use made of research studies that were undertaken, than actually occurred.

The history, up to and through the Kaiser study, not too bad, but it should have been a lot better. Part of it is that we, possibly, did not pick the type of studies that we should have picked.

Part of the problem may have been we were overly ambitious. I thought the Pearson results, after we finally got them, were quite good and quite helpful. I saw a U.S. Geological Survey report the other day that I haven't had a chance to look at in detail yet, but apparently they wiped that out--the Pearson work--as not particularly valid.

But the Pearson study did help in framing the Kaiser study recommendations. The Kaiser study recommendations were not followed precisely. But there's a pretty fair pattern of consolidation and modifying the disposal pattern in San Francisco Bay, that I think is very good, very helpful, and to a fairly good degree, implements the Kaiser recommendations. So it's not totally lost.

I wish we could say that all of the studies had been as effective as one of the first ones the board undertook--and this was started way before my time--on refuse sites. This was a big problem in

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Bonderson: southern California, with the garbagemen just drooling over abandoned gravel pits. And it was obvious that use of gravel pits for garbage disposal would pose a threat to ground water.

So we did undertake studies, or the state board undertook studies, which helped hold the line. It really helped in the control program, and subsequently, when I was here, we undertook further studies on the impact of gases generated within refuse sites and their impact on water quality. That has been very helpful.

I wish we'd had more of those. Well, Water Quality Criteria, which initially started before my time. But that helped not only California, but helped water pollution people throughout the world.

There are other contracts I can't mention, name them, at the moment, that, in effect, went on the shelf. That sounds rather negative--maybe more so than is really the case. When you start a project you are full of optimism and enthusiasm and are confident you will solve all your problems. Many times such high expectations are not realized and consequently you are left with a let down feeling.

Chall: So part of it's knowing the right kind of major question to ask and, if you ask the right question, you might be able--

Bonderson: You might be able to make use of it. This is still of concern to the present board, that we're getting too many reports that end up on the shelf.

Chall: What creates this? Is it not having time or the expertise to think through a problem carefully, so that you do go out asking the right kinds of questions?

Bonderson: I wish I could answer that. I can't, because I know, as a staff person that was involved for a number of years in research projects, great care, we thought great care was put into selecting things that would really end up giving us help. But for some reason or other, we guessed wrong.

Now, it's hard to evaluate some of these things. One of the first big difficulties I had when I came to Sacramento is that the previous executive officer had talked the state board into a very expensive contract with the Hancock Foundation at the University of Southern California without having the money to carry it through.

The project was poorly designed; it was not clear what they were to do, and it obviously had to be scaled back, because we didn't have the money. We did keep it alive, and one

Bonderson: of the main things, was to try and find out what are the water quality characteristics, particularly the characteristics of the benthic biota along the southern California coastline.

The results, the report submitted by the Hancock Foundation was pitifully inadequate. So it had to be rewritten. But there is a tremendous amount of background information that may someday be worthwhile, but it hasn't really helped the control program so far. Yet this report came out back in about 1960.

Chall: Maybe you should find some way to put the data into a bank and retrieve it as you need it. Let's assume all the right questions are asked, and a good report comes out. Would there be any reason for not carrying out a policy? Would that be a political problem within the state board or with the regions, or with the dischargers?

Bonderson: I don't understand the question.

Chall: Suppose everything was good about a report, but you still couldn't move it into policy; you still couldn't develop policy as a result of it. Why might that occur, or would it not occur?

Bonderson: I don't think at the moment of anything that we did that fell into that category. But it can happen. An example would be the major waste dischargers in southern California who joined together in a joint powers agreement. L.A. city, L.A. County, Orange County, and the city of San Diego. I don't think Ventura's in that. They've spent millions, and I mean millions, studying the effects in the immediate vicinity of the outfalls.

They are very competent scientists, and everybody agrees that the troops are competent scientists. The director of the project for the past several years is a guy by the name of [Willard] Bascom. He's rather well known. Oh, he was involved in the MOHOLE, and other oceanographic explorations, I guess you'd call it. There's some question as to whether or not he's as straightforward as he should be, and has distorted some of his staff's work.

But I believe they've pretty well shown that, with a couple of exceptions, the impact of these big waste discharges are rather insignificant. In fact, there's another oceanographic group that just came up with the same findings. But they aren't acceptable. [laughter] And everyone says, "Well, the boss was the waste discharger."

Chall: Like the whole problem recently of cholesterol. [laughter]

Bonderson: That's all I have!

Chall: Thank you. I do appreciate all the work you've done to get ready for this interview. I think we have a very good interview here.

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TAPE GUIDE -- Paul Bonderson

Interview 1: June 5, 1980

tape 1, side A	1
tape 1, side B	8
tape 2, side A	17
tape 2, side B	26
tape 3, side A	33
tape 3, side B	41

Interview 2: June 11, 1980

tape 4, side A	48
tape 4, side B	56
tape 5, side A	64
tape 5, side B	72

INDEX - Paul R. Bonderson

American River, 60

Bacon, Vinton, 3, 12, 19-20

Bard, Carla, 60

Beermann, Paul, 27, 42

boards and commissions, uses of, 26-27, 47, 57, 60-61

Brown, Edmund G., Jr. (Jerry), 73

Brown, Edmund G., Sr. (Pat), 34-36, 38-40, 48, 64

Bryson, John, 60

California [State] Little Hoover Commission, 55-56, 58

California State

Department of Agriculture, 70-71

Department of Finance, 36-37, 63

Department of Fish and Game, 27-28, 36, 39, 53. See also sportsmen's groups

Department of Public Health, 3, 5, 16-17

Department of Water Resources, 45-46, 48, 55-56, 59-60, 71

Resources Agency, 58, 64-65

Water Pollution/Quality Control Boards

administration of state and regional boards

1950-1956, 1-17, 19-20, 28

1956-1966, 18-77

legislation for

AB 2034, Randal Dickey (1949), 2-9, 15-17, 28, 32, 44-45

AB 1974, Charles Meyers (1959), 27-43

AB 1096, George Miller, Jr. (1963), 34, 43-49

AB 3025, Charles Meyers, Carley Porter, Jack Casey (1963), 46-49

AB 1094, Charles Meyers, Paul Lunardi (1965), 50-51

SB 470, George Miller, Jr. (1965), 52

AB 163, Carley Porter, Gordon Cologne (1967), 55-61

AB 413, Carley Porter, Gordon Cologne (1969), 32

research and consultation, 6-8, 39, 46, 62-77

Water Resources Control Board, 55-61

Water Rights Board, 56, 58-59

California [State] Water Project, 45-46, 51

Cousins, Robert (Bob), 19

dairies. See water pollution

Daly, John Charles, 65-66

detergents. See water pollution

Dickey, Randal, 2n. See also California State Water Pollution/Quality Control Boards, legislation for

Drain, 70-71

environmental movement, 13, 65-66

Environmental Protection Agency. See United States

federal water pollution control programs. See United States

Fisher, Hugo, 48, 52, 55, 64-65

Geraghty, Cecil, 13

Gilbert, Jerome B., 59

Goldfeder, Irving, 26

Gordon, Seth, 27-29, 65

Hancock Foundation water quality study, 76-77

Hannum, Warren T., 12

Harrison, John B. (Jack), 28-29

Hoover Commission, Little. See California State

Hyperion Sewage Treatment Plant, 12-13

Innerfield, Arthur, 36

Interagency Staff Working Group (ISWG), 36-38

Joseph, David, 36

Knight, Goodwin, 22-24

lobbying, 28-29

Los Angeles County Sanitation District, 25, 28

McKee, Jack, 39, 46

Metropolitan Water District, 45, 46, 48

Mexico and California water pollution, 68-69

Meyers, Charles, 27, 34, 42. See also California State Water Pollution/
Quality Control Boards, legislation for

Miller, George, Jr., 31, 47, 52. See also California State Water Pollution/
Quality Control Boards, legislation for

Mosk, Stanley, 42

Mugford, Jeff, 36-37

Mulligan, Kerry W., 59, 61

Nelson, DeWitt (Swede), 21

New Melones Dam, 60

Nichols, Luther, 13, 31

O'Connell, William, 1-2, 13, 14, 46-47, 52
 Ongerth, Henry, 16
 Oroville Dam, 45

Pearson, Erman, 64, 70, 75
 Peripheral Canal, 46
 Porter, Carley. See California State Water Pollution/Quality Control Boards,
 legislation for
 Post, Alan, 54

Rawn, AM, 1, 21-22, 24-26, 28
 Reagan, Ronald, 59
 Robie, Ronald, 55-57, 61

San Francisco Bay Delta Water Quality Control Program Studies (Pearson, Kaiser),
 64, 70, 75
 Shannon, Walter, 53
 Sheriff, Kenneth, 15
 Smith, Neal, 10
 sportsmen's groups, 13, 27-20, 50, 65
 Stead, Frank, 3, 26, 36-37, 53
 Steele, G. Kelton, 41
 Stone, Raymond, 18
 Sweet, Charles (Chuck), 19, 46, 56

Tahoe, Lake, 65-68
 Tyee Club, 29

United States
 Bureau of Reclamation, 59-60, 71
 Environmental Protection Agency, 7-9, 49, 74
 Federal Clean Water Act, 66
 Federal Water Pollution Control Act, 73-75

Warne, William, 22, 40, 41-43, 47-48, 50, 52, 54-55

water pollution control
 and dairies, 70
 and detergents, 51-52
 and pesticides, 70
 and pulp mills, 72

Water Pollution/Quality Control Boards. See California State

Malca Chall

Graduated from Reed College in 1942 with a B.A. degree, and from the State University of Iowa in 1943 with an M.A. degree in Political Science.

Wage Rate Analyst with the Twelfth Regional War Labor Board, 1943-1945, specializing in agriculture and services. Research and writing in the New York public relations firm of Edward L. Bernays, 1946-1947, and research and statistics for the Oakland Area Community Chest and Council of Social Agencies 1948-1951.

Active in community affairs as a director and past president of the League of Women Voters of the Hayward Area specializing in state and local government; on county-wide committees in the field of mental health; on election campaign committees for school tax and bond measures, and candidates for school board and state legislature.

Employed in 1967 by the Regional Oral History Office interviewing in fields of agriculture and water resources, Jewish Community history, and women leaders in civic affairs and politics.





